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ABSTRACT

This is the fourth report of a project designed to monitor and assess progress made by the federal government and targeted states and school districts in carrying out the 1994 amendments to Title I. It presents field research on statewide policies and practices with respect to Title I in California, as well as district and school implementation in the Fresno Unified School District (FUSD), which has high levels of concentrated poverty and large numbers of English language learners (ELLs). Overall, evidence that Title I has made a difference for poor children in California is scant. The state has been slow to implement many changes called for in the 1994 law and has been cited repeatedly by the federal government for failing to comply with statutory deadlines and requirements. Funding allocations for Title I are spread thin and may be insufficient to address the disadvantages children in low-income areas face. Moveover, districts and schools may not be using what funds they do get in the most cost-efficient manner. California has made substantial progress related to accountability, though its accountability system is mired in controversy. FUSD has undertaken many reforms in the absence of clear, consistent direction from the state. (Contains 25 references.) (SM)

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Title I in California

Will the State Pass the Test?

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Title I in California

Will the State Pass the Test?

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Spring 2002

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Many people contributed to this report. Robert Rothman, an education writer, is the principal author of the report. Diane August, a consultant to the Commission, served as principal investigator, and prepared the case studies that became the basis for this report.

Dianne M. Piché and William L. Taylor are the report's principal editors. Ms. Piché, now the Commission's executive director, served as director of the Title I monitoring project between 1997 and 1999, supervised the investigation, and wrote portions of the report. William L. Taylor, acting chair of the Commission, provided editorial expertise and overall guidance to the project.

Project director Pamela M. Cherry assisted with research and editing and made other important contributions to this project. Robin A. Reed, the Commission's project coordinator, contributed a wealth of research, editorial, layout, design and production skills to the report.

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Foreword

The Citizens' Commission on Civil Rights is a bipartisan organization established in 1982 to monitor the civil rights policies and practices of the federal government and to seek ways to accelerate progress in the area of civil rights.

This report is the fourth in a series of studies by the Commission's Title I monitoring project, which is examining whether and how federal reforms put into place through the 1994 and 2001 reauthorizations of Title I of the Elementary and Secondary Education Act of 1965 are being implemented in high-poverty schools. Previous Commission reports on Title I implementation include: *Title I in Midstream: The Fight to Improve Schools for Poor Kids* (1999), *Title I in Alabama: The Struggle to Meet Basic Needs* (1999), and *Closing the Deal: A Preliminary Report on State Compliance with Final Assessment & Accountability Requirements Under the Improving America's Schools Act of 1994* (2001).

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Chapter 1

Introduction

California is one of the most critical states in the nation for the standards-based reform movement. It is significant both because of the large and increasing numbers of poor and immigrant students and because of the strains that ever-increasing enrollments and insufficient resources have placed on the public schools.

These challenges would be significant for any state, but California has long failed to provide equal educational opportunity for its poor and minority students. Although it does not have a history of state-enforced segregation, California has consistently found itself challenged in court for not providing adequate resources to schools serving low-income and minority children. The results of this record came in sharp relief when the first state-by-state comparisons of student achievement were released by the National Assessment of Educational Progress in the early 1990s: not only did California rank near the bottom of all states in reading and mathematics performance, its African American and Hispanic students performed much worse than similar students in other states with comparable populations.

Although there is some dispute about the relationship between the level of spending on schools and academic achievement, it is clear that concentrations of poverty exacerbate the challenges schools face in educating children from low-income homes. The more students from low-income families, the greater a school's needs for additional highly trained staff, more personal attention, an enriched curriculum, extra instructional materials, after-school and summer classes, and parent involvement programs.

Advocates for poor and minority children in California have sought to rectify the imbalances in educational opportunity by seeking redress first under the state's constitutional guarantee of equal protection of the laws and later under the guarantee of an appropriate education for all students. In the early 1970s, state court rulings attempted to level the playing field by equalizing per-pupil expenditures statewide. However, Proposition 13, a ballot initiative approved in 1978 that limited property taxes, curtailed the ability of local districts — particularly those with low levels of wealth — to raise funds for schools. At least in part as a result of this law, the state ranks below the median of all states in the country in per pupil expenditures for elementary and secondary education.

The federal government's role in education is focused primarily on ensuring equality of educational opportunity. The national interest in education has been manifested for the past three decades mainly through the civil rights laws and through Title I of the Elementary and Secondary Education Act of 1965. Title I, a $10.3 billion program that now serves more than 12.5 million students in some 50,000 schools, has for decades provided funds to California school systems and schools

that serve high concentrations of poor children. In 2001–02, California received $1.2 billion from Title I, and will receive nearly $1.5 billion in 2002–03.

Title I* (which was named Chapter 1 between 1981 and 1994) is the federal government's largest program providing financial assistance to elementary and secondary schools. In the 1994 reauthorization of the program, Congress substantially overhauled Title I. The 1994 amendments asked states, local school districts, and schools receiving Title I funds to shift the focus of the program from remedial education to high standards and higher achievement — reforms that had been advocated by a broad coalition of civil rights and education organizations. These reforms called for raising academic standards; building the capacity of schools; developing new assessments aligned with standards; ensuring accountability by school officials; and fully including all students, particularly those with limited English proficiency and disabilities, in Title I programs, testing, and accountability. The reforms were premised on an explicit finding by Congress that all children could learn and master challenging material.

California has long failed to provide equal educational opportunity for its poor and minority students.

In 2002, President George W. Bush signed a new reauthorization of Title I that builds upon and in many ways strengthens the requirements of the 1994 law. The new statute, called No Child Left Behind, requires states to measure and report the performance of all students more frequently and to set strict timelines for closing achievement gaps, and it mandates remedies for students in schools that fail to make adequate progress on those timelines. In addition, the measure steps up efforts to ensure teacher quality, and authorizes substantial financial resources for the poorest schools. The measure was explicitly designed to create strong incentives and provide resources and support to enable states and school districts to address the needs of low-performing students and schools.

However, the new law, like the 1994 reauthorization of Title I, is not self-enforcing. Meeting the goal of enhancing educational opportunity for disadvantaged children requires officials at every level — school, district, state, and federal — to carry out their respective obligations. It also requires the active involvement of parents and other stakeholders.

States are required to develop content and student performance standards, fair and accurate assessments aligned with those standards, and a system to hold schools and districts accountable for progress. Moreover, the states must provide or broker technical assistance, monitor districts' implementation of program requirements, intervene where warranted to provide assistance to low-performing districts, and take corrective action when necessary.

*Unless otherwise specified, all references in this report are to Title I, Part A, which provides grants to local educational agencies based on the enrollment of economically disadvantaged students. Total appropriations for Part A and other parts of Title I (which now include separate family literacy, migrant education and other programs) now total over $12 billion (FY2002).

Purpose of the Report

In 1997, the Citizens' Commission initiated a project to monitor and assess the progress made by the federal government, and by targeted states and school districts, in carrying out the 1994 amendments to Title I. This is the fourth report of the project. The first, *Title I in Midstream* (1999), assessed the U.S. Department of Education's actions at the midpoint of the reauthorization period and identified a number of areas in which the Department had failed to fulfill its obligations under the statute. The second, *Title I in Alabama: The Struggle to Meet Basic Needs* (1999), examined policies and practices in that state, selected because of its history of denial of educational opportunities to children of color. The report found that, while Title I had helped to narrow some of the funding gaps that separated high- and low-income communities, the state had been slow in carrying out many of the provisions of the 1994 law. The third, *Closing the Deal: A Preliminary Report on State Compliance with Final Assessment & Accountability Requirements Under the Improving America's Schools Act of 1994* (2001), examined state progress in meeting final assessment requirements and found widespread noncompliance and a continuing need for strong federal enforcement.

In this study, the Citizens' Commission reports on field research on statewide policies and practices with respect to Title I in California, as well as district and school implementation in the Fresno Unified School District, a district selected due to its high levels of concentrated poverty and large numbers of English language learners (ELLs).

In undertaking this study of Title I in California, the Citizens' Commission asked the following questions:

- Have the 1994 requirements been implemented?
- Have the 1994 revisions of Title I brought about any changes in the district and two schools within the district?
- How have schools used the flexibility and decision-making authority in schoolwide programs?
- What are the patterns of resource allocations? Is the district targeting funds to the neediest schools on the basis of poverty? Are the schools using funds for educationally sound comprehensive school improvement and to serve all underachieving populations within the schools?
- Has the state's assessment and accountability system affected local efforts at school improvement? If so, in which ways?

In addressing these questions, the Commission hopes that this study can assist a range of constituencies — including parents, community organizations, policymakers, educators, and the press — to better understand both the promise of the 1994 Title I reforms, as well as ways in which that promise is being realized or, in some cases, compromised, in states and school districts across the country. Moreover, the answers to these questions can also provide some insight into prospects for the new reauthorization. As states and school districts begin to put in place the stringent requirements of the No Child Left Behind Act, the record of the past eight years highlights the challenges that schools, school districts, states, and the federal government face in making real the law's potential for improving educational opportunity for disadvantaged students.

To conduct its review of the implementation of the 1994 act, the Citizens' Commission tracked implementation of the new law from the federal government to the California Department of Education (CDE). The field research was completed in 1999 and supplemented with additional research in the

spring, summer, and fall of 2000 to reflect recent developments in state policy and practice with regard to assessment and accountability.

From the U.S. Department of Education, the Commission obtained materials and other information with respect to California's consolidated state plan, as well as correspondence and other evidence related to compliance with Title I's final assessment provisions. The Commission also conferred on several occasions over the course of this project with Department officials, including: Michael Cohen, Joseph Johnson, Judith Johnson, Mary Jean LeTendre, Goodwin Liu, Susan Neuman, Marshall Smith, and Susan Wilhelm.

The evidence that Title I has made a difference for poor children in California is scant.

At the CDE, the Citizens' Commission met with the following people: Hannah Walker, Director of District and School Support Division; Norm Gold, Acting Director of School and District Accountability Division; Barbara Brandes, Acting Manager of Local Accountability Assistance Office; Maria Trejo, Manager of Language Policy and Leadership Office, and Dan Holt, Consultant with the District and School Support Division. We obtained copies of state laws, department regulations, documents pertinent to Title I, the Consolidated State Plan, and general information items such as the California Handbook of Education Information, English-Language Arts and Mathematics Content Standards for California Public Schools, Tool Kit for Consolidated Application for Funding Categorical Aid Programs, and Coordinated Compliance Review Manual. Copies of Department documents relevant to the Improving America's Schools Act also were obtained from the U.S. Department of Education's website.

In the Fresno Unified School District, Commission staff interviewed the following people: Florentino Noriega, Associate Superintendent for Educational Services; Carlos Encinas, Assistant Superintendent of the Elementary Division; Marguerite McMenamin, Administrator of State and Federal Programs; Robert Grobe, Director of Research, Evaluation, and Assessment; and Larry Zander, Administrative Analyst. Documents collected from the school district included the Local Improvement Plan, 1998–99 Consolidated Application, Memoranda regarding the district assessment and accountability system, Program Manager's Handbook, Facilitator's Handbook for Title I Parent Involvement, Training Guide for the School Site Council for the School-Based Coordinated Program, and the Office for Civil Rights Compliance Agreement. District staff nominated two schoolwide schools for Commission staff to visit. At Ayer Elementary School, Commission staff interviewed Sue Fuentes, the principal, and several staff members, and at Homan Elementary school Commission staff interviewed Janet Cooper, the principal, as well as Title I administrators. Staff toured schools and observed instruction in classes, and reviewed the school site plans.

The result of this research is a study that the Citizens' Commission believes will help inform Title I policymaking and implementation. As the reader will see, the evidence that Title I has made a difference for poor children in California is scant. The Citizens' Commission has found that the state has been slow to implement many of the changes called for in the 1994 law, and has been cited repeatedly by the federal government for failing to comply with statutory deadlines and requirements. Although the state may be moving to put in place the systems the 1994 law envisioned, such changes have yet to affect the education of poor children in the state.

Moreover, the Citizens' Commission research found that the funding allocations for Title I are spread rather thin and may be in-

sufficient to address the disadvantages children in low-income areas face. In addition, districts and schools may not be using what funds they do get in the most cost-efficient manner.

In the pages that follow, this report describes in detail the recent educational history of California and its actions to comply with the Title I law. Chapter 2 discusses the state's context, with data on demographics and educational outcomes, and a brief description of recent reform initiatives. Chapter 3 describes the state's policies and practices as required under Title I. Chapter 4 describes the experience with Title I in a large urban district with a high concentration of poverty. The report concludes with recommendations designed to ensure that the promise of Title I reforms becomes a reality for more children in California.

Chapter 2

Education in California

The largest and most diverse state in the union has grown larger and more diverse over the past decade, with increasing numbers of poor children and immigrants. The 2000 Census confirmed what educators and state officials had long suspected: California is now a "majority minority" state, in which racial and ethnic minorities now comprise more than 50% of the state's population.

The struggle to educate such a diverse student body was helped somewhat by a booming economy, which enabled California to increase its share of school funding throughout the decade of the 1990s. However, the state still lags behind the national average in per-pupil spending. And state authorities have increasingly come under fire for inequalities in the education system that place low-income children at a severe disadvantage. In recent years, for example, advocates for poor children filed two lawsuits alleging serious gaps in the availability of educational resources that threaten opportunity for poor and minority children. One focused on the availability of Advanced Placement courses in high schools, and one on the availability of textbooks and other basic educational materials.

I. Educational Conditions and Resources

According to the California Basic Educational Data System, 5.95 million students were enrolled in grades K–12 in California public schools in 1999–2000. That same year, Census data show, 25% of the state's children lived at or below the federal poverty line. Nearly a fourth of public schools had between 75% and 100% of their students eligible to participate in the federal free and reduced-price lunch program, and another 22% of schools had 50% to 74% of their students eligible for the program. Research has shown that such high concentrations of poverty often contribute to poor academic performance.

A large and growing segment of the population of students in California are ELLs. In the Language Census completed in the spring of 1999, California school districts reported a total of 1,442,692 ELLs enrolled in kindergarten through grade 12. This number represents about 25% of California's total enrollment and 40% of the approximately 3.5 million English learners estimated in the U.S. in 1996. Overall, approximately 37% of California students were white (not Hispanic), 9% were African American (not Hispanic), 42% were Hispanic, 2.4% were Filipino, 8% were Asian, 0.9% were American Indian or Alaskan Native, and 0.6% were Pacific Islander (CPEDS, 2000).

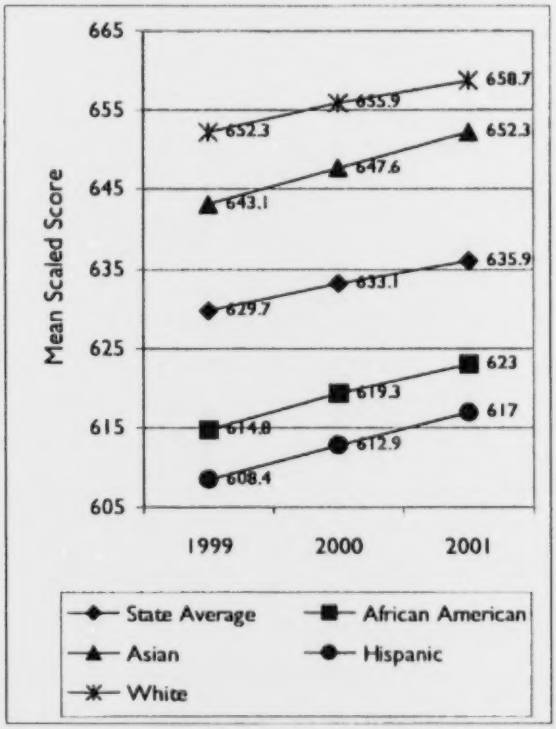
California receives more Title I dollars than any other state. In the 1998–99 school year, California's combined basic and concentration grant allocation was $829,978,270, far more than that of New York or Texas and 11.4% of the national total. Los Angeles County alone had an allocation that approximated that of large states like Illinois and Florida.

California's Title I allocation increased to close to $1.5 billion (14% of the national total) in FY2002, after Congress increased education spending as it passed the NCLB Act.

The state has substantially increased its spending on K–12 education in the past few years. In 2000, Governor Gray Davis proposed allocating a third of the state's $12 billion budget surplus toward education, and the legislature approved a substantial increase in spending, including $1.84 billion in discretionary aid to districts to compensate for reductions in the early 1990s, and $1.1 billion to enable districts to provide cost-of-living raises to teachers. As a result, per pupil spending in California increased by 7% from the 1999 level, from $6,321 in FY2000 to $6,763 in FY2001. Despite this increase, this amount is still far below the national average for the 1999–2000 school year of $7,583. The new funding may begin to alleviate the large disparity between the resources afforded poor and affluent schools.

According to a recent study conducted by the Public Policy Institute of California,[1] at elementary schools with the most impoverished students, nearly 22% of teachers lacked credentials. At schools with more affluent children, the figure was 2%. Another area of inequality is the number of Advanced Placement classes available to students. The researchers found that 16% of California high schools offer no Advanced Placement classes and 11% offer just one or two.

Figure 1. California Stanford 9 Scores in Fourth Grade Reading, by Major Subgroups

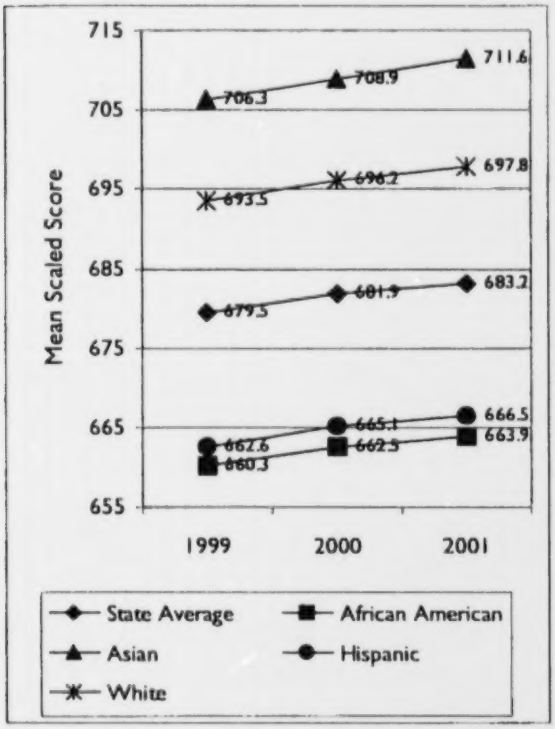


Source: California STAR School Summary Report <http://star.cde.ca.gov>

A. Student Outcomes

California has consistently lagged behind much of the rest of the country in student achievement. On the most recent 1998 National Assessment of Educational Progress (NAEP) reading assessment, for example, California had a smaller proportion of fourth graders performing at the proficient level or above — 20% — than all but three states. The achievement of poor and minority students was much lower. Only 7% of African American, 8% of Hispanic, and 7% of students eligible for free or reduced price lunches in Ca-

Figure 2. California Stanford 9 Scores in Eighth Grade Math, by Major Subgroups



Source: California STAR School Summary Report <http://star.cde.ca.gov>

lifornia were at or above proficient in reading.

Moreover, the state's record on high school completion is poor. One-third of its students in ninth grade in 1993 failed to graduate from high school four years later. The numbers for African American and Latino students are higher; 45% of African American and 46% of Hispanic ninth graders either failed to graduate on time or at all. Of the minority students who do graduate, fewer than 30% meet the entrance requirements for the University of California or California State University System, the state's extensive public four-year college systems. Among more selective campuses (e.g., UCLA and UC-Berkeley) admission of minorities is further hampered by unequal access to Advanced Placement courses.

When statewide achievement testing is used as a barometer for student achievement, results from the spring of 2000 indicate that California is doing an average job of educating fluent-English speaking students, but a poor job with the one million English language learners and 1.5 million low-income children.[2] While 56% of English-fluent second graders scored at or above the national average on the state test, only 19% of English language learners scored at this level. At the fifth grade level, only 9% of English language learners were above the national average in reading. In math, 52% of all English-fluent eighth graders met or surpassed the national average compared with 15% of English language learners.

Moreover, scores for low-income students — those who qualify for free or reduced-priced lunches — were, on average, half as high as scores for the 2.7 million test-takers who were not classified as economically disadvantaged. In reading, 22% of low-income fourth graders scored at or above the national average, compared to 56% of fourth graders who are not economically disadvantaged. In math, 33% of low-income fourth graders scored at or above the national average, compared to 56% of more affluent sixth graders.

While these trends are similar to those observed in other states and in the nation as a whole, a closer analysis of California results suggests that when the concentration of disadvantage increases, the gaps in performance widen. Researchers from the Center for Research on Evaluation, Standards, and Student Testing at UCLA found that, in schools with high proportions of low-income students, all students — advantaged and economically disadvantaged alike — performed less well than students in schools with smaller proportions of low-income students. Likewise, in schools

with high concentrations of English language learners, the average performance of both fluent-English students and English learners is lower than in other schools. These results suggest, the researchers conclude, that "the extent to which a school confronts the difficulties of teaching impoverished children [and children with limited English skills] may affect not only the performance of poorer students [and students struggling to learn the language], but all students."[9] This finding has enormous implications for Title I.

B. California's Education Reform Efforts

California has had a long and active record in education reform. However, these efforts have often been characterized by shifting signals, mixed purposes, and competing and often conflicting agendas.

One reason for such confusion is the large number of actors involved in education reform in the state. The governor, the legislature, the state board of education (appointed by the governor), the elected state superintendent of public instruction, and the public, through ballot initiatives, all make education policy.

In the 1980s, a popular state superintendent, Bill Honig, launched an ambitious series of reforms aimed at strengthening instruction in California. Long before states began the effort to set standards for student performance, Honig and the state department of education published "curriculum frameworks" in each subject area that described what should be taught at different grade levels. Honig also sought to use the state's large share of the textbook market to encourage publishers to produce materials that matched the state frameworks, and created subject matter projects that provided professional development for teachers aligned with the frameworks.

Honig had also intended to revamp the statewide test, the California Assessment Program (CAP), to measure the frameworks. However, Governor George Deukmejian eliminated the CAP in the heat of an escalating clash with Honig, a clash that ultimately led to his removal from office.

In 1991, the legislature and the new governor, Pete Wilson, authorized a new test, one of the most innovative in the nation. The California Learning Assessment System (CLAS) relied extensively on the use of performance-based assessments, rather than traditional multiple-choice questions, to measure students' abilities to solve problems and communicate their understanding. However, the new test attracted considerable opposition, not the least of which came from Governor Wilson, who objected to the fact that the test could not, at least at first, provide scores for individual students. (Because of the way the test was designed, it could only produce school-level scores.) In 1994, Governor Wilson killed CLAS and urged the legislature to authorize a new test that would provide scores for individual students.

During the debate over the assessment system, the first state-by-state comparisons of student achievement, conducted by the National Assessment of Educational Progress,

California had 40% of the approximately 3.5 million English learners estimated in the U.S. in 1996.

were released, which showed California performed near the bottom of all states in reading and mathematics. Some critics in the state charged that the curriculum frameworks, on which CLAS was based, were responsible for the low performance. Others claimed that the frameworks had barely been implemented, and that other factors, such as low spending on education, were more responsible. In response, the new superintendent of public instruction, Delaine Eastin, appointed task

forces in reading and mathematics, which recommended changing the frameworks to place a greater emphasis on basic skills.

In addition, the legislature also mandated the establishment of content and performance standards for student performance, as Title I required, and authorized a new assessment system to provide individual student results. At first, the assessment was to be orally administered: districts that volunteered to administer a commercially available standardized test to students in grades 2 through 10 would receive $5 per pupil from the state. It turned out that these different tests were not comparable to one another; the state then required the use of a single test. To meet that requirement, the state board of education chose the Stanford Achievement Test, 9th edition (SAT 9).

C. Class-Size Reduction and English-Only Instruction

Although not directly related to the policies required under Title I, two recent pieces of legislation have had a dramatic impact on education in California and on the ability of schools to improve schooling for disadvantaged students. The first was a 1996 law that mandated reductions in class sizes in kindergarten through grade 3. The law, which reduced the number of pupils per class in the early grades from 30 to 20, costs $1.5 billion a year, and a major evaluation of the program found that it has yielded mixed results. On the positive side, the evaluation found that third-grade students enrolled in reduced-size classes performed slightly better than those who were not. For 1998–99, the smaller third-grade classes produced 3.5% more students performing above the 50th percentile in language than the smaller classes; 3.6% more in math; 1.4% more in reading; and 1.4% more in spelling. The gains were found across all socio-economic levels. On the negative side, however, concerns were expressed that the program, which required schools to hire an additional 28,500 teachers in a short period of time, forced schools to select teachers with little or no experience. This problem may have been particularly acute in schools with the highest concentration of poor and minority children, which often have the lowest share of certified teachers.

California is doing an average job of educating fluent-English speaking students, but a poor job with the one million English language learners and 1.5 million low-income children.

The second law that has had an impact on the education of disadvantaged students is a ballot initiative, known as Proposition 227, passed in 1998. This initiative requires most bilingual education programs in California to be replaced with one-year English immersion programs. Districts are allowed to continue bilingual education programs only through a waiver process, in which parents request that their children not be placed in English immersion. According to the California State Department of Education, by the end of the first year of implementation, the percentage of English language learners in California schools who were enrolled in bilingual programs dropped from 29% to 12%.

Since the initiative went into effect, ELL students in some districts have shown gains in performance, but there is considerable controversy in the state over what produced these positive results. Proponents of English-only instruction attribute the gains to the change in instruction the measure requires, while proponents of bilingual education maintain that the gains came about because of reduced class size and greater accountability. Moreover, as a result of the initiative, many teachers were placed in the position of teaching only in English without requisite train-

ing or materials. According to a report by the Linguistic Minority Research Institute of the University of California that studied 16 California districts during the first year of 227 implementation, none of the districts studied provided systematic training for teachers to make the transition from one kind of instruction to another. In interviews with researchers, teachers complained they lacked materials for new English-immersion classes, as their administrators told them not to use textbooks in students' native languages but did not replace them with anything else.

Chapter 3

Title I in California

For more than 35 years, Title I has provided California with federal funds to improve education for children who attend schools with high concentrations of poverty. These supplementary funds support improvements in teaching and learning for students who are most at risk of school failure.

But Title I is more than a revenue source. It calls for schools that receive federal funds to use the same standards and assessments the state establishes for all children, including students receiving Title I funds. States are responsible for measuring student achievement, identifying schools that require improvement, and providing assistance to those schools.

Each state is required to submit a state plan that describes how the state will implement Title I and certain other federal programs in concert with the state's own education reform agenda to the U.S. Department of Education for approval. California submitted its plan in May of 1996. On July 1, 1996, the U.S. Department of Education accepted the plan provisionally, on the condition that the state alter a proposal to allow local districts, not the state, to set standards for school performance. After nearly a year of negotiation, the state modified the proposal slightly, though it still allowed local standards, and the Department approved the plan. The following year, California implemented a statewide test and established state standards for school performance.

In subsequent years the U.S. Department of Education has repeatedly warned California about its failure to meet all of the requirements of the federal statute. In one of his last acts as assistant U.S. secretary of education for elementary and secondary education, Michael Cohen stated that California was out of compliance with the law and would have to enter a compliance agreement (see appendix). He cited a number of instances in which the state assessment and accountability policies failed to meet the requirements of the law, and noted that, while the state plans to develop new measures that would meet those requirements, it had not done so under the timeframe the law established. However, the Bush Administration reversed this decision and granted the state a waiver from the timeline requirement. Nevertheless, despite the repeated warnings and persistent evidence of noncompliance, federal money has continued to flow to California.

In the sections that follow, we examine how the policies and practices of California have fulfilled — or in some cases failed to fulfill — the promise of Title I reforms with respect to our poorest children.

I. Standards and Assessment

A. Content Standards

Content standards are at the heart of the reform envisioned by the Title I legislation. The standards define the knowledge and skills all students are expected to acquire and demonstrate. They make the goals of learning visible to students, parents, teachers, administrators and the general public. Properly done, standards help guide instruction. They should also guide test development to help ensure that tests measure what the standards expect.

The federal government does not dictate the content of a state's standards, nor does a state have to send its standards to Washington, D.C. for approval in order to receive Title I funds. However, states must provide evidence that their standards are rigorous and challenging, that they were developed with public participation, and that they hold students to high expectations.

In California, the development of content standards was mandated by statute, known as AB 265. That law required the California State Board of Education (SBE) to adopt content and performance standards by January 1998. By 1999, the State Board had adopted state standards for every grade level in language arts, mathematics, science, and history/social science.

To set the standards, the statute created a Commission for the Establishment of Academic Content and Performance Standards, a 21-member panel appointed by the Governor, the State Superintendent of Public Instruction, and the California Legislature. The commission worked for nearly a year researching and evaluating standards from other states and national organizations, defining its own criteria, developing drafts, and incorporating input gathered at eight public hearings, nine community input meetings throughout the state, and expert review from across the country. The Commission prepared final drafts of the recommended academic content standards in the areas of language arts and math and submitted them to the State Board of Education, which approved the English language arts and mathematics standards in 1997.

The standards represented a shift in instructional emphasis from the curriculum frameworks the state had adopted in the previous decade. The new English language arts standards, for example, placed a greater emphasis on teaching phonics than the frameworks, which had emphasized the teaching of literature. Similarly, the mathematics standards stressed the teaching of basic skills as well as problem-solving.[4]

Both sets of standards earned high marks from outside reviewers. The American Federation of Teachers (AFT) recognized the language arts standards as exemplary (CDE press release, September 29, 1997). And William Schmidt, the U.S. national research director of the Third International Mathematics and Science Study (TIMSS), a 41-nation study of achievement in those subjects, praised the mathematics standards.[5]

In July 1998 the California Academic Standards Commission adopted statewide academic standards for history/social science and science.[6] Based on the content standards, the state has developed curriculum frameworks in reading/language arts and mathematics. These frameworks also specify guidelines for textbooks the state will adopt; under state law, local districts can use state funds only for textbooks adopted by the state board. The state is expected to spend $1 billion ($250 million a year over four years) on textbooks that are aligned with the standards. According to a state board member, the adopted textbooks are intended to help districts "fill in the gaps" in their textbook collections with ones that meet the new standards.[7]

B. Performance Standards

Performance standards complement the content standards by describing the level of performance students need to demonstrate to be considered proficient. They indicate the quality of work that students at various levels of proficiency can perform. For example, performance standards might specify the score on a test that indicates "basic," "proficient," and "advanced" levels of achievement, as well as descriptions of the knowledge and skills each level represents, and examples of student work that illustrates such descriptions. As educators often describe them, performance standards indicate "how good is good enough."

The 1994 Title I statute requires states to set at least three levels of achievement: "proficient" and "advanced," both of which indicate high levels of performance, and a third level that indicates that students are below proficient or approaching that level.

In 1997–98, the year the state was required by the statute to set performance standards, California established a "performance standard" for grade-level performance on its interim assessment — a norm-referenced test that compares students' achievement to that of a nationally representative sample of students. Under that standard, the state established the 50th percentile as its standard for grade-level performance on the test.

But despite warnings from the U.S. Department of Education, the state did not develop performance standards until long after the deadline set by law. In February 2001, the state board of education adopted performance standards for English language arts. These standards set five levels of achievement: "far below basic," "below basic," "basic," "proficient," and "advanced." The state estimated that, based on the 2000 administration of the test, approximately 15% of students would have been classified as "far below basic," just below a fourth would have been "below basic," a third would have been "basic," a fifth would have been "proficient," and just below 10% would have been "advanced."[8] The board adopted performance standards in other subjects in late 2001, based on the spring 2001 administration of its standards-based tests. This was four years after the deadline established in the 1994 law. The U.S. Department of Education, however, has not yet determined whether the standards comply with Title I.

1. Standards for English Language Learners

The state indicates that the standards adopted for ELLs, former ELLs, and immigrant students in the core subjects should be the same as those required for mainstream students, with interim benchmarks set to allow for some reasonable period of time before ELLs are expected to meet grade-level norms. The state has also set standards for English language development (ELD) for such students. These standards are based on the number of years of instruction a student received, and are set for grade spans (K–2, 3–6, 7–8, 9–12), rather than for each grade level.

The U.S. Department of Education has repeatedly warned California about its failure to meet all of the requirements of the federal statute.

The ELD standards also designate proficiency levels: beginning, early intermediate, intermediate, early advanced, advanced. The state requires districts to assemble individual and group data to show that ELLs are acquiring English proficiency and progressing in the district's core curriculum at a rate that will enable them to meet grade-level academic standards within a reasonable period of time.

C. Assessment

A standards-based education system requires assessments that are aligned to the content and performance standards. "Alignment" means a match that is as close as possible between the standards and the assessment with respect to the coverage, emphasis, and difficulty of the subject matter. Aligned assessments help ensure that test results indicate the extent to which students are meeting the standards. They also help make certain that the test measures what students have been taught. Although schools are often criticized for "teaching to the test," implying that students are being coached to score high on the tests rather than taught to learn content, alignment can help make sure that if students are taught to meet the standards they can perform well on the test. The use of multiple measures of performance, as required by the Title I statute, moreover, further decreases the chances that schools will narrow the curriculum to the test format.

Although schools are often criticized for "teaching to the test,"... alignment can help make sure that if students are taught to meet the standards they can perform well on the test.

The 1994 amendments to Title I required that, by the 2000–01 school year, states adopt and use new assessments aligned with the high academic standards the law also mandated. These assessments must provide individual scores or reports of student progress, and must include all students, including those who have limited English proficiency, who have disabilities, or who change schools within the district during the school year. In addition, assessment results must be disaggregated by race, gender, disability status, limited English proficient (LEP) status and low-income status. And while school districts are allowed to supplement statewide Title I assessments with additional measures, these measures are not to be used as a substitute for final statewide assessments, or to thwart the purposes of a statewide accountability system.

In the years following the enactment of the 1994 Title I statute, California continually changed its assessment system, and the system is still evolving. As of spring 2002, however, the assessment system has not met the requirements of the 1994 federal law. California cannot indicate the extent to which all students are meeting challenging standards.

In 1996–97, when the state lacked a statewide testing system, California authorized districts to select their own assessments from a state-approved list, and to supplement such assessments with locally developed or adopted measures. According to the state's own evaluation, however, this approach produced wide variations across districts and did not permit common judgments about student performance.

In 1998, as the state board of education was considering the content standards developed by its standards commission, the legislature authorized the use of a single statewide assessment that could be implemented immediately and provide results for individual students. The test the board adopted, the SAT 9, is one that is widely used. However, it is a commercially available test that was not designed to match any particular state's standards, including California's. In addition, the SAT 9 is a norm-referenced test, meaning that it is designed to compare student performance against that of other students, not against standards. Half of the students who take the test will perform above average, and half below. Any target of performance on that type of test — say, reaching the 50th percentile — will only measure whether students are doing better than other students. It will

not indicate whether they have met the standards the state has set.

Under the program implemented in California in 1998, known as the Standard Testing and Assessment Reporting (STAR), the state tests students in grades 2–8 in reading, spelling, written expression, and mathematics. Students in grades 9–11 are tested in reading, writing, mathematics, history/social science, and science. Individual student scores must be reported to parents by June 30 of each year.

Recognizing that the SAT 9 does not match the state's standards, in 1999 the state created an "augmentation" that includes test items that reflect the standards. The augmented assessment adds 35 additional English language arts questions in grades 2–11 and 50 additional math questions in grades 2–7. Students in grades 8–10 answered math questions by enrollment in specific courses (algebra I or first year integrated math in grade 8; geometry or second year integrated math in grade 9, and algebra II or third year integrated math in grade 10). The augmented tests, known as the California Standards Tests, were first administered in 1999. The augmented test in English language arts was used for accountability for the first time in 2001. The other tests will not be used for accountability until they are determined to be valid and reliable.

There is some concern that, even with the augmentation, the STAR testing program is not aligned with the state standards. According to researchers from the Center for Research on Evaluation, Standards and Student Testing at UCLA, the content on the augmented test, though broader than that on the regular SAT 9, still does not represent the full range of standards (CRESST, 2000).

The state had added more assessments that are intended to measure standards. The state developed a writing assessment for grades 4 and 7, which was administered for the first time in spring 2001. The writing assessment score will be combined in 2002 with other STAR results to produce a single score for English language arts for each student, and for aggregation of results at the school level and above.

California Standards Tests in history/social science were administered for the first time in spring 2001 in grades 9 through 11. California Standards Tests in science, which are tied to courses rather than grade levels, in grades 9 through 11 were administered for the first time in spring 2001. Students not enrolled in courses for which there are California Standards Tests will continue to take the Stanford 9 test in science appropriate to grade level enrollment.

Under legislation passed in 1999, the state is also developing a high school exit examination (HSEE). The law requires students in grade 10 to take the exam, and allows students to retake it until they pass each section. The test was administered for the first time in 2001. Overall, 64% of students passed the English language arts portion and 44% passed the mathematics portion; approximately 42% of students passed both. However, the pass rates for poor students, English language learners, and students with disabilities were far lower: 22.7% of economically disadvantaged students; 11.9% of ELLs, and 10.3% of students with disabilities passed the tests.

The HSEE is expected to be used as a graduation requirement beginning with the class of 2004. An early evaluation of the development of the test indicated that schools had not made adequate preparations for students to learn the required content. However, a subsequent evaluation suggested that schools had made progress in preparing students and recommended that the state "stay the course" in its plans to use the test as a graduation requirement (HUMRRO, 2000, 2002). In 2001, though, the legislature mandated a study to determine students' opportunity to learn the content measured by the test, to be completed by May 2003. By August 2003, the legislation states, the state board of education must de-

termine whether to delay the implementation of the graduation requirement.

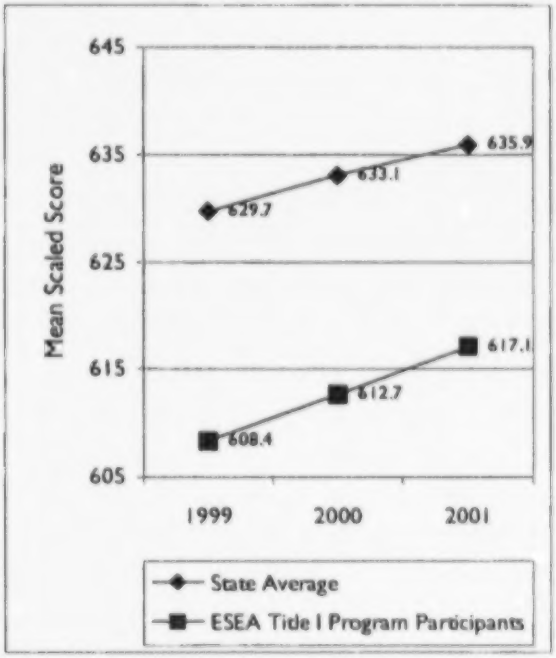
The California High School Exit Examination has also been the subject of a lawsuit filed on behalf of students with disabilities. In the lawsuit, the plaintiffs sought an injunction to bar the use of the test as a graduation requirement for students with disabilities. In February 2002, U.S. District Court Judge Charles R. Breyer declined to issue the injunction, but ruled that students with disabilities could take the test with any accommodation or modification their Individual Education Programs provided for any test, or, if their IEPs provided for an alternate assessment, the students could take an alternate exit examination. The court did not decide how the use of accommodations or alternate assessments would affect the receipt of a diploma (*Juleus Chapman et al. v. California Department of Education et al.*).

Despite these additions to the testing system, California still failed to meet the statutory deadline for implementing tests aligned to the state's standards. Although the law required states to implement such tests by 2000–01, California will not comply until 2003 at the earliest, when the next generation of tests are developed. And even then, the state may continue to use a strategy augmenting a norm-referenced test in English language arts with items that are designed to match California standards rather than use a standards-based test in that subject.

1. Assessment of English Language Learners

The law that established the STAR system required ELLs who have been enrolled in California public schools for a year or more to take the SAT 9. Spanish-speaking English language learners who have been in California schools for less than 12 months must take a test in their primary language, the SABE 2, published by CTB/McGraw Hill. ELLs from other language groups who have been in school for 12 months or less must also take

Figure 3. California Stanford 9 Scores in Fourth Grade Reading, by Participation in ESEA Title I Program

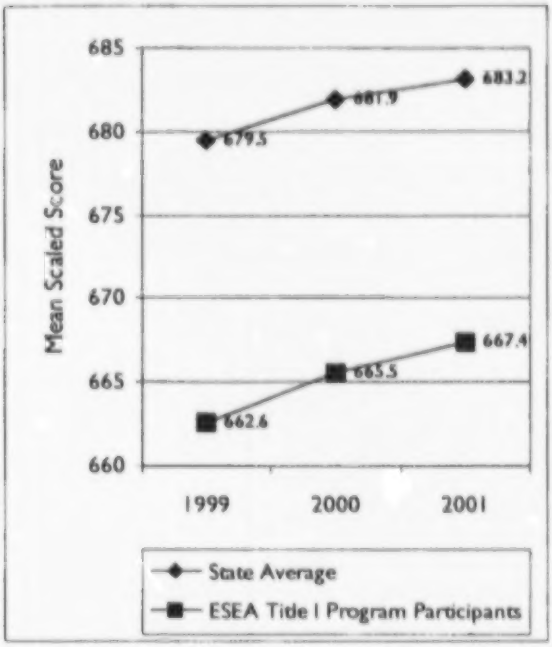


Source: California STAR School Summary Report <http://star.cde.ca.gov>

standardized achievement test in their primary language if one is available. Primary language testing is optional for English learners who have been enrolled more than 12 months. Districts wishing to test students in languages other than English and Spanish may do so, but the state provides no funding for such tests.

California Department of Education guidance also suggests that, whenever possible, local districts should administer assessments of mathematics, science, social science, health, and other subjects required for promotion, to ELLs in the language in which they are best able to demonstrate their knowledge of the subject matter. The department indicates that often this will be the same language

Figure 4. California Stanford 9 Scores in Eighth Grade Math, by Participation in ESEA Title I Program



Source: California STAR School Summary Report <http://star.cde.ca.gov>

as that used as the medium of instruction for the particular course; however, ELLs and immigrant students with considerable previous schooling experiences in their primary language may be better able to demonstrate knowledge through primary language assessments during the first few years in the United States.

To determine students' readiness for the English language test, California is also developing a test of ELD to assess English learners' language proficiency in listening, reading, speaking, and writing. The test must be aligned with the state's English language development standards. Districts will be required to administer the test when students first enroll in school and during one period annually set by the State Superintendent of Public Instruction and the State Board.

There is considerable controversy in the state over the requirement that ELL students take the SAT 9 in English. The San Francisco school district refused to administer the test to any ELL student who had been in California schools for less than 30 months, a decision that was upheld in court. Three Bay Area districts joined California in a lawsuit seeking to block the testing requirement. In addition, two districts sought to prohibit the state from reporting results of their districts' ELL students, but a state court ruled that the state could post the results on the Internet. The Mexican American Legal Defense and Educational Fund (MALDEF) also intervened in the case on behalf of the students.[9]

In addition to claiming that an English-language test is not a valid measure of academic performance for ELL students, districts also charge that the results of the SAT 9 are misleading, since California's school population differs sharply from that of the norm group, against which results are compared. Although 25% of California students are ELLs, only 2% of the norm group for the SAT 9 were ELLs.

II. Accountability

A. Previous Practices

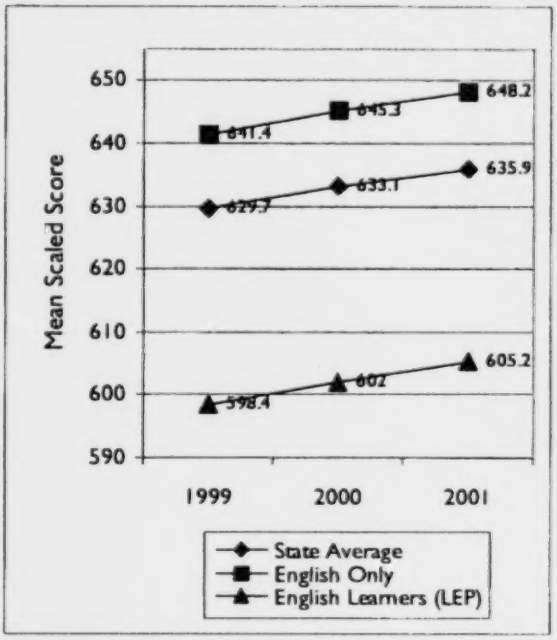
California's accountability system evolved significantly over the period of the 1994 Title I authorization. In 1996–97, the state implemented an accountability system at a time when there was no statewide assessment. Under the system, districts could define their own measures for gauging student performance and set their own standards for grade-level achievement. Title I schools would qualify for Program Improvement status if 40% or fewer students met or exceeded the local standards.

This system violated the principle embodied in the 1994 statute that all students would be held to the same standards, since some districts might have adopted different standards and, as the National Research Council found, it is not feasible to link results from different tests to determine comparability (National Research Council, 1998). Moreover, the state department of education's own review of accountability plans submitted during the first year found "inconsistencies across districts in the quality and rigor of assessments and accountability systems." The department concluded: "The grade-level performance standards set by districts were not consistently high, and the local measures used by some districts were of indeterminate quality."

On July 1, 1996, the U.S. Department of Education rejected California's proposal to use local assessment and accountability systems. Instead, the Department provisionally approved the state's plan for Title I compliance with the condition that California cure this deficiency and report on its efforts by September 30, 1996. After a year of negotiation, despite repeated insistence by the U.S. Department of Education that states, not school districts, set standards for school performance, California implemented its policy of district definitions of accountability. Although the final version of the policy, submitted to the Department for approval on May 13, 1997 (four days after the policy was posted on the California Department of Education web page and disseminated to districts) included language recommending that districts use certain numerical standards to identify schools in need of improvement, the policy nevertheless violated the law.

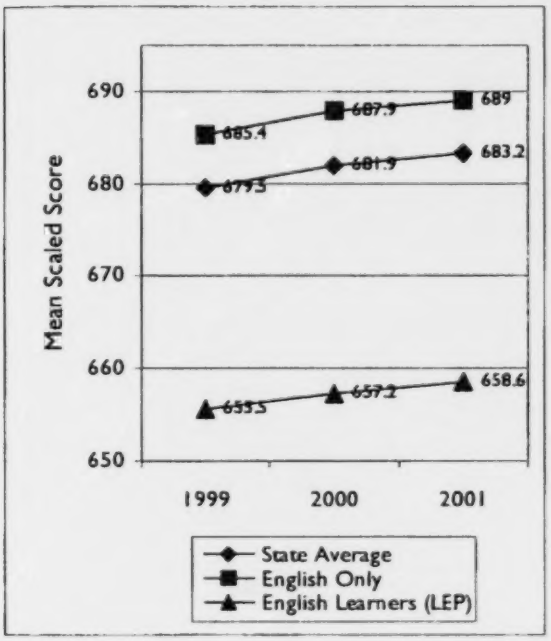
The following year, the state implemented a statewide test (the SAT 9) and revised its accountability system to provide greater comparability across districts while still allowing for local flexibility. Under the new system, districts could still identify Title I schools for Program Improvement if 40% or fewer of students met or exceeded local standards. However, the new system defined yearly progress as adequate by comparing school performance on the SAT 9 — the percentage of students scoring at or above the 50th percentile — to the statewide average. Schools that met or exceeded the average statewide growth (in 1997–98, 2.5%) were considered to make adequate progress; those that failed to reach that level of growth were eligible for intervention. During the first year under this accountability system, districts identified approximately 840 schools as meeting criteria for Title I Program Improvement. This number represented more than 10% of California public schools.

Figure 5. California Stanford 9 Scores in Fourth Grade Reading, by Language Proficiency



Source: California STAR School Summary Report <http://star.cde.ca.gov>

Figure 6. California Stanford 9 Scores in Eighth Grade Math, by Language Proficiency



Source: California STAR School Summary Report <http://star.cde.ca.gov>

B. The Public Schools Accountability Act (PSAA) of 1999

The state legislature created a new accountability system in 1999, one of the first acts of incoming Governor Gray Davis. The PSAA established a common statewide measure of school performance (the Academic Performance Index, or API), a program for intervention and sanctions for low-performing schools (the Immediate Intervention/ Underperforming Schools Program), and a program of rewards for high-performing schools (the Governor's Performance Award, or GPA).

1. Academic Performance Index

The API is a numeric index (or score) between 200 and 1000. Initially, the index reflects a school's performance on the SAT 9. However, the law stipulates that other measures, including the California Standards Test, the high school exit examination, and graduation and attendance rates will be added to the API when the data are available. The California Standards Test in English language arts was added in 2001. The law requires that test results constitute at least 60% of the API; the rest, up to 40%, will consist of noncognitive measures like attendance and graduation rates. Schools are required to report test scores of their English language learners as part of the API, except for students who have been in the district for less than one year.

Schools receiving an API score between 200 and 1000 are ranked in ten categories of equal size (deciles) from one (lowest) to ten (highest). A school's API score and ranking are compared to those of schools statewide and to schools with similar demographic characteristics.

2. Annual Growth Targets (AGTs)

To set growth targets for schools until performance standards are set, the state established a goal for all schools of an API score of 800. Under the plan, the target for a school is 5% of the distance between a school's API score and 800. For example, if a school in 1999 earned an API score of 450, its target for 2000 would have been 467.5; the 17.5-point increase equals 5% of 350 (800 minus 450). Schools approaching an API of 800 must maintain a growth rate of at least 1 point a year. Schools whose API exceeds 800 must stay above that target.

In addition to achieving annual targets for the school as a whole, each school must also demonstrate growth for numerically signifi-

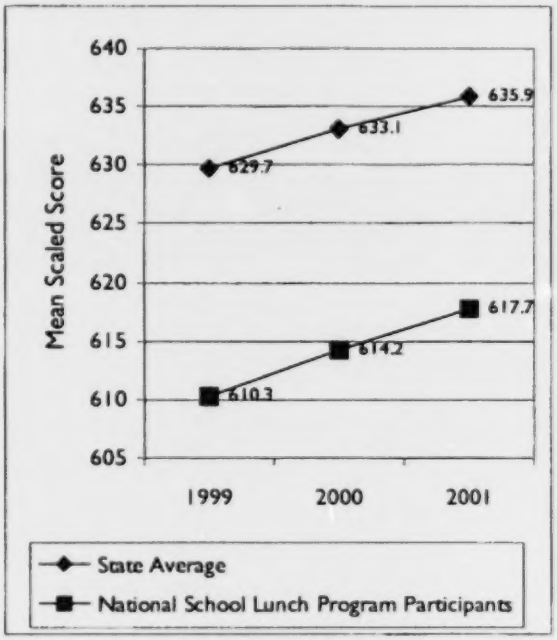
cant ethnic/racial and economically disadvantaged groups within the school. Each group that comprises at least 15% of a school (and that consists of at least 30 students) must demonstrate annual growth of at least 80% of a school's overall growth target. ELLs are not considered a subgroup for API calculations, nor are students with disabilities. [Note: Under NCLB, the new the federal statute, states must require progress for these student groups, as well as racial/ethnic groups and low-income students.]

Schools must report their API results in their local School Accountability Report Cards annually.[10] Each school district's governing board must also discuss these results at a regularly scheduled meeting. Generally API results are reported twice a year: base year reports in January and growth reports in September.

The API targets are set for most traditional schools and charter schools. However, about 1,000 schools — those with fewer than 100 students with valid test scores, special education schools and centers, charter schools serving high-risk students, and alternative, continuation, community day, court, community, and county schools serving high-risk populations — are not part of the API system. These schools are subject to an alternative accountability system, in which targets for growth are based on a range of indicators, including STAR test results. The state board of education approved the framework for this alternative system in 2000, and schools in the model are to report baseline data in July 2002; they will report data on their achievement of growth targets in July 2003.

Because this system is just getting under way well after the creation of the API, and because of the exclusion of ELLs who do not take the SAT 9, some 900,000 students are not yet included in the state's accountability system.

Figure 7. California Stanford 9 Scores in Fourth Grade Reading, by Participation in National School Lunch Program

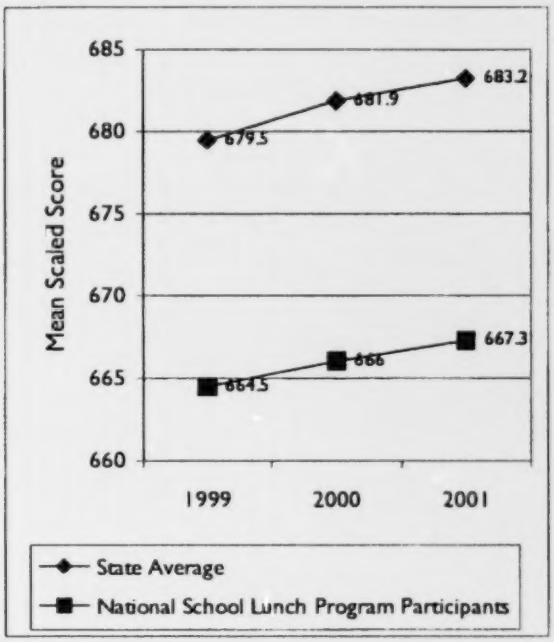


Source: California STAR School Summary Report <http://star.cde.ca.gov>

3. Immediate Intervention/ Underperforming Schools Program (II/USP)

In addition to establishing the API and growth targets, the 1999 accountability law also established a program of intervention in low-performing schools. As a pilot for the new program, the state identified the 430 schools that scored the lowest on the SAT 9 in 1998 and 1999 and asked them to participate. About 100 of these schools are participants in the Comprehensive School Reform Demonstration (CSRD) program. Planning schools received a grant of $50,000, and the state assigned an external evaluator to each school to review the school's operations and to de-

Figure 8. California Stanford 9 Scores in Eighth Grade Math, by Participation in National School Lunch Program



Source: California STAR School Summary Report <http://star.cde.ca.gov>

velop a plan of action in collaboration with the school site and community team. CSRD schools received a minimum of $50,000, or up to $167 per pupil. CSRD schools did not need an external evaluation, but instead had external support. If the governing board and CDE approve the plan, in spring 2000 and every year thereafter, schools can apply to receive up to $200 per pupil to implement the action plan. For the 2000–01 school year, $21.5 million is available to support a second group of 430 schools that did not meet their 1999–2000 growth targets.

Under II/USP, schools are required to write or revise a school improvement plan and receive assistance to improve academically. External evaluators from the State Department of Education assist schools by: informing parents and guardians that the school has been selected for the program; holding a public meeting at the school, in cooperation with the principal, to which all parents are invited; soliciting recommendations for actions to improve school performance; notifying parents of their opportunity to provide recommendations; completing a review that identifies weaknesses in the school; and developing an action plan with the school-site and community team that identifies and develops solutions that will improve student performance, parent involvement, and the allocation of resources and management. Schools already in II/USP that continue to fall below their targets or do not show significant growth may be subject to local interventions or eventually to state sanctions (see below).

In 2001, the legislature created a new program to provide assistance to the lowest-performing schools in the state. The High Priority Schools Grant Program for Low-Performing Schools provides $400 per pupil to schools in the lowest deciles on the API ($200 per pupil if schools already receive funds under the II/USP program). In addition, the program authorizes the external evaluator not only to develop an improvement plan but also to provide technical assistance to the school. Alternatively, a school district could contract for technical assistance with organizations "with proven expertise specific to the challenges inherent in low-performing schools."

4. Sanctions

While the intervention program is intended to assist low-performing schools, the law also authorized the state to impose sanctions on schools that persistently fail to improve. A school that fails to meet its annual growth target a year after implementing the action plan must hold a public hearing to announce the lack of progress and must take corrective action, which may include reassigning staff or other appropriate measures. A school that fails to meet its performance goals but that

has demonstrated significant growth continues to receive funding as an I/UP school. After two years of implementing an action plan, if a school has not met its growth targets, the school is deemed a low-performing school and the Superintendent of Public Instruction assumes governing powers for the school. The principal is reassigned and one of the following takes place: students are allowed to attend other schools; a charter school is developed; the management of the school is assigned to another educational institution; other certified employees are reassigned; a new collective bargaining agreement is negotiated; the school is reorganized or closed (Consortium for Policy Research in Education, 2000).

5. Awards for Good Performance

To encourage schools to make efforts to improve performance, the 1999 accountability law also authorized significant cash awards to schools that demonstrate substantial growth. Under the Governor's Performance Award (GPA) program, schools that meet their API growth target — and in which all subgroups meet 80% of the growth target — are eligible for awards of $63 per student. (The program had been originally planned to offer larger awards, but more schools than anticipated qualified in the first year.) In addition, schools would also be eligible for a one-time bonus for all faculty and staff.

Schools that registered exceptional growth — at least twice the annual growth target, with all subgroups gaining at least 80% of the school growth target — are eligible for substantial awards under the Certificated Staff Performance Incentive Award program. Under that program, 1,000 certified staff members in schools with the largest growth earn $25,000 each; the next 3,750 earn $10,000 each, and the next 7,500 earn $5,000 each.

C. Alignment with Title I Accountability

Prior to the enactment of the accountability law and the implementation of the API, California identified schools for Title I program improvement based on their progress in meeting local standards. The state identified districts for Program Improvement if 75% or more of their Title I schools had been designated for Program Improvement. In 1997–98 and 1998–99, the state identified approximately 1,350 schools for Program Improvement.

Over the past two years, California has aligned state and federal requirements into a single state accountability system, using the API as the primary measure for eligibility for Program Improvement. This represents a significant difference from the practice in most other states, which continue to operate dual accountability programs. In 1999–2000, California designated Title I schools for Program Improvement if they ranked in the lowest decile on the API; Title I schools in the second decile on the API were candidates for Program Improvement unless data from local assessments indicated that the schools were making academic progress. Beginning in 2000–01, Title I schools are identified for program improvement when they have failed to make adequate yearly progress for two consecutive years.

Districts receiving Title I funds must annually review the progress of each Title I school designated for Program Improvement. Districts are required to publicize and disseminate the results of the annual review to teachers and other staff, parents, students, and the community so that they can continually refine the school's program of instruction.

Districts are required to provide, or make available to program improvement schools, the technical assistance they need to develop and implement their school plan. After a school has been identified for improvement for three consecutive years, a district may take

corrective action, using any of the remedies prescribed under the federal Title I statute.

D. Technical Assistance

The state department of education provides program assistance to individual districts, schools, and agencies, based on the unique needs of the clients, through such mechanisms as the Statewide System of School Support; elementary, middle grades, and high school networks; county or district consortia; county offices of education; and partnerships with institutions of higher education.

California's Statewide System of School Support (S4), funded by IASA, is a major CDE initiative to ensure that reforms in standards, assessment, and accountability and teaching and learning are known and implemented at the district and school levels. S4 is the CDE's collaborative professional development effort with directors of the regional school support and improvement centers (RSSICs), comprehensive assistance centers (CACs), and other entities, including school leadership teams and district learning support teams. The members of this network collaborate to plan, implement, and evaluate schoolwide programs. S4 conducts regional training institutes for school leadership teams engaged in writing schoolwide plans and implementing schoolwide programs. In 1999, S4 served approximately 4,000 schoolwide project schools.

California has two Comprehensive Assistance Centers (CACs) funded by the U.S. Department of Education to assist districts and schools in implementing programs under IASA, including the development of standards-based assessment and accountability systems. Northern California is served by the Region XI Comprehensive Center at WestED and in Southern California services are provided by the Region XII Comprehensive Center at the Los Angeles County Office of Education. Also available to assist districts and schools are 11 regional directors in the Statewide System of School Support.

III. Compliance with Federal Law

The U.S. Department of Education has informed California on numerous occasions that the state may not be in compliance with Title I requirements. In March 1998, Mary Jean LeTendre, then director of the federal office of compensatory education programs, noted in a letter that the state had not yet developed performance standards, despite the law's deadline that states do so at the start of the 1997–98 school year. The letter urged the state to develop such standards "as soon as possible."

In September 1999, Ms. LeTendre notified the state about "concerns regarding the inclusion of all students in your state assessment system in a way that provides meaningful information about their knowledge and skills in relation to the state's standards." Ms. LeTendre's letter specifically inquired about how California would address the need for accommodations for both LEP and disabled students; how such students' scores would be reported; and how the state would address highly mobile students (many of whom, the letter noted, are LEP) in the accountability system. The letter also requested more information on state compliance with Title I's requirement of multiple measures of student performance.

In January 2001, Michael Cohen, the assistant U.S. secretary of education for elementary and secondary education at that time, stated in a letter that "it is clear that California is substantially out of compliance" with the statute (see appendix). Mr. Cohen demanded that the state enter into a compliance agreement with the U.S. Department of Education specifying the steps the state will take, and the timeline for completing them, to meet the requirements, in order to continue receiving federal Title I funds.

Specifically, the letter noted that California could not meet the law's requirement to

implement a standards-based assessment system until 2002 at the earliest. The test in use, the SAT 9, was "not aligned with state standards," Mr. Cohen noted, and the augmentation left gaps between the content standards and the assessments. In addition, the letter noted that the state had not yet developed performance standards in all subjects; it did not provide evidence of the technical quality of its assessments; and it did not provide for including LEP students in the assessment system "in the language and form most likely to yield accurate and reliable information on what they know and can do in subjects other than English." Moreover, Mr. Cohen noted that some 900,000 students were excluded from the current system of accountability because scores were not valid, students were exempt, and students who attended small or charter schools were excluded. Because of the high rate of exclusion, California did not meet the law's requirement to include all students in the state's accountability system.

In January 2001, Michael Cohen, the assistant U.S. secretary of education for elementary and secondary education at that time, stated in a letter that "it is clear that California is substantially out of compliance."

Despite these concerns, the Bush Administration reversed Mr. Cohen's determination and instead granted California a timeline waiver, allowing the state until November 30, 2003, to ensure that its assessment system met the 1994 statute's requirements. In a letter to Superintendent of Public Instruction Delaine Eastin, Susan B. Neuman, the new assistant secretary of education for elementary and secondary education, noted that several aspects of California's assessment system "do not meet the requirements" of the Title I statute, but that information the state provided suggested that the state could meet the requirements with additional time, and asked Ms. Eastin to request a waiver. On March 8, 2002, the department granted the state a timeline waiver.

In a letter granting the waiver, Dr. Neuman stated that: "This additional time will allow California to complete development and implementation of inclusion policies, performance standards for all components of the assessment system, the California Special Education alternate assessment, and evidence of the alignment of the HSEE with the content and performance standards." However, the letter also noted that the state must provide additional documentation about the development of performance standards, alignment with content standards, and other matters, and urged the state to maintain its timeline for including English language learners in assessments. Dr. Neuman warned that, if the state fails to keep on its timeline or violates any other condition of the waiver, the department will withhold 25% of administrative funds under Title I until the secretary of education determines that California has met the statute's requirements.

IV. Conclusion

The 1994 amendments to Title I of the Elementary and Secondary Education Act sought to overhaul the program — and, hence, the delivery of instruction to students in high-poverty schools — by shifting from a focus on remediation to one of high standards and accountability for higher achievement. The law also, for the first time, spelled out requirements for the full inclusion of students with limited English proficiency in Title I programs, assessments, and accountability systems. California is an especially important state with respect to Title I reforms because it receives substantially more Title I funding than any other state; it enrolls 40% of the

nation's students with limited English proficiency; and its achievement, including the achievement of its poor, African American, and Latino students, has lagged behind the rest of the country.

In prior studies, the Citizens' Commission reported that California's early implementation of Title I lacked coherence and failed to ensure high standards for all students. For example, its decision to allow local districts to determine their own criteria for program improvement produced wide inconsistencies.

Recently, the state has tried, through legislative and executive branch policy initiatives, to create a coherent policy environment throughout the state, one that is aimed at setting common high standards for all students and holding schools accountable for meeting those challenging expectations. These initiatives have begun to have an impact throughout the state.

However, as the review from the U.S. Department of Education indicates, these initiatives are taking effect long after the deadlines established by the 1994 law, and there are concerns that they will still fall short of both the letter and the spirit of the law. California may not be enabling all students to reach challenging standards.

Specifically, there are concerns that *the state continues to rely on a test that is not aligned to state standards*. Unlike other states, which set standards and then developed a test to measure performance against the standards, California adopted a statewide commercially available test, the SAT 9, even as it was in the process of developing standards, and then sought to retrofit the system to the standards. At this point, however, it is not clear that this approach is effective. Even though the state acknowledges that the SAT 9 is not aligned to standards and has administered an "augmentation" to try to match the test to the standards, schools are accountable only for their performance on the SAT 9. Thus the ability of the standards to set high expectations for all students gets muted. Moreover, the results of the SAT 9 may be misleading for California, because the student population is far different from that of the norm group, to which results are compared.

To its credit, California is planning to add additional components to its accountability system so that schools will be accountable for performance on a range of indicators, including measures of performance against the standards. But these measures are years away from taking effect.

Another concern relates to *the inclusion of English language learners in the state assessment and accountability system*. The 1994 statute was explicit in requiring states to include students with limited English proficiency in assessment and accountability systems in a manner that would yield valid and reliable information on their performance. By requiring English language learners who have been in California schools for a year to take tests in English, California has not lived up to the law's strictures.

Moreover, the state is still developing an accountability system for small schools, alternative schools, and charter schools. As a result, nearly a million students were excluded from the state's accountability measures. Without valid and reliable information on the performance of these students, the validity of school performance data is thrown into question, and schools are not accountable for the performance of a significant proportion of students.

Chapter 4

Title I at the District Level

Whether the promise of Title I is fulfilled ultimately depends on actions at the district level. Districts must hire qualified teachers, provide for professional development, identify schools in need of improvement, and direct resources to those schools. They must also allocate federal Title I dollars to ensure that the children who need the funds receive them. And, in a state like California that has been very slow to implement the changes required by the 1994 law, districts often fill the breach with their own assessment and accountability systems.

In California, the shifting signals from the state capitol have altered the measures districts use to assess school performance, the standards they use to determine whether schools are effective, and the resources available to low-performing schools. And in some cases the policies have yet to take effect. As a result, it is difficult to say in 2002 — seven years after the enactment of the 1994 reauthorization of Title I — that it is having a significant effect in California schools.

This chapter discusses the Citizens' Commission's findings in the Fresno Unified School District, the district with the highest concentration of poverty in the state. The district has established an assessment and accountability system and adapted it to incorporate the evolving state system. Yet it is not clear that the new systems have had an appreciable effect on schools in Fresno. Moreover, it is not clear that schools are spending their Title I funds any differently than they would have under the old system, prior to the 1994 law.

Commission staff visited the Fresno Unified School District (FUSD) in the spring of 1999 and followed up with interviews with school district staff in 2000 and 2001. Information in this chapter is based largely on the 1998–99 and 1999–2000 school years unless otherwise noted.

I. The Fresno Unified School District

The Fresno Unified School District has a diverse student body with a high proportion of poor children. Some 34% of the children in Fresno live in impoverished neighborhoods, the highest concentration of poverty among urban districts in the state and one of the highest in the nation. Fresno also serves many migrant, homeless, and recent immigrant children. Its elementary schools are large and crowded (with many enrolling 500 to 1,000 students), and many operate on a year-round schedule. In short, FUSD includes a large number of schools Title I was intended to serve.

Altogether, in the years studied, the Fresno Unified School District enrolled 79,461 students. More than two-thirds — 72% — of students were eligible for the federal free and

reduced price lunch program. Approximately 53,800 students participated in compensatory education programs. Nearly a third of students, 25,530, or 31.8%, were LEP. The largest number of these students are Spanish background (13,198), followed by Hmong students from Southeast Asia (8,099). LEP students made up almost half of those in compensatory education programs.

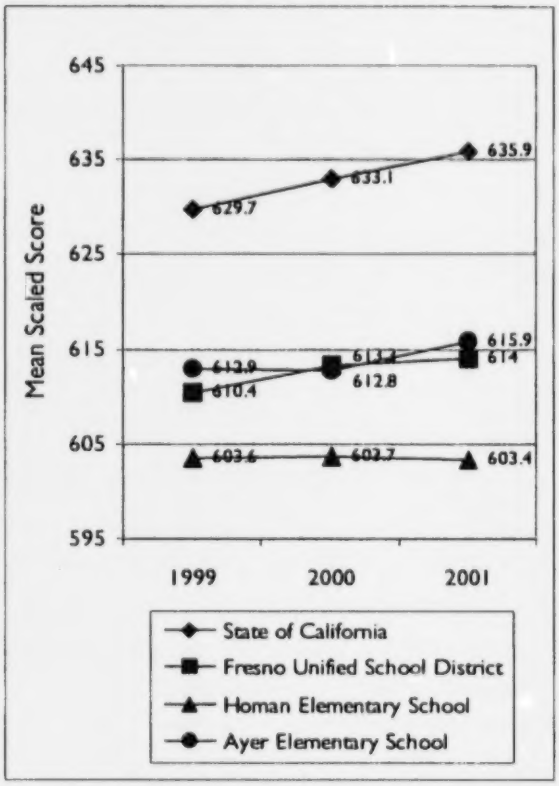
Like many districts in California, Fresno has grown rapidly in the past decade, particularly in the number of students who are LEP and the number of LEP students from Southeast Asia. The California Class Size Reduction Act, which placed a cap on class sizes in the primary grades, added to the growth pressures of the district, and the district had to create space for 300 new teachers and has built three new schools.

The district received $24,676,821 in Title I funds. Fresno uses Title I funds for supplemental counseling, case managers, and supplemental service contracts for teachers and aides to provide extended learning time (some through Saturday schools, home school liaisons, computers, and computer software). Funds are also used for teacher training, field trips, and extended-year programs. The district has also sought to use Title I funds to support the use of reading tutors with teaching certificates. Officials have encouraged schools to phase out the use of noncertified instructional aides for that purpose, but the class size reduction has placed a premium on the certified tutors, and implementing this change has been more difficult than officials had anticipated. For English language learners, bilingual funds are used for primary language instruction and Title I funds for supplementary services in English.[11]

The district has placed a high priority on improving literacy instruction. Fresno developed an action plan around literacy in 1995 and has implemented it in elementary and middle schools. The district also employs language review teams that examine student progress in reading three times a year. It identified more than 2,000 students in elementary grades who were two or more years below grade level, and established literacy clinics for such students. At the middle school level, the district has placed reading resource teachers in schools and has implemented new instructional strategies.

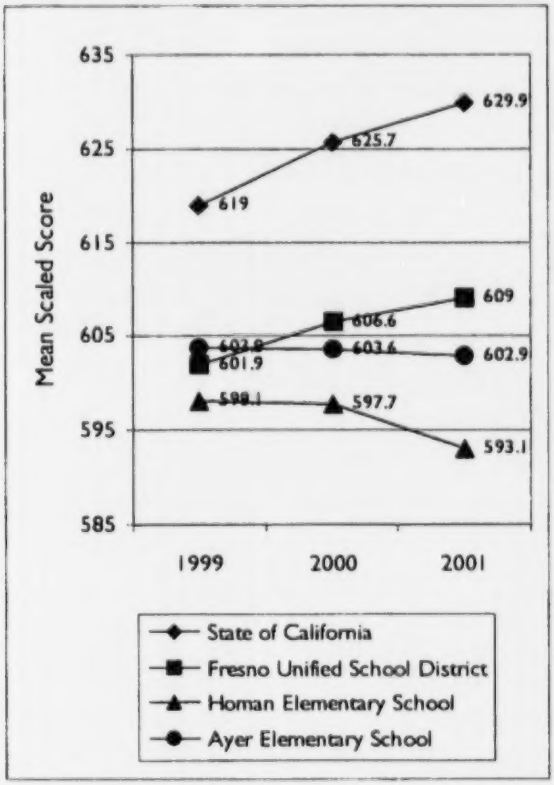
The district's student performance continues to lag behind the state average, however. In 2000, Fresno's average reading scores on the statewide test (the SAT 9) fell between 5 and 20 points below the state average, depend-

Figure 9. Stanford 9 Scores in Fourth Grade Reading, by State, District and School



Source: California STAR School Summary Report <http://star.cde.ca.gov>

Figure 10. Stanford 9 Scores in Fourth Grade Math, by State, District and School



Source: California STAR School Summary Report <http://star.cde.ca.gov>

ing on the grade level. And, although the district's performance improved in every grade between 1998 and 2000, the rate of improvement was no better than the state's as a whole. Likewise, in mathematics, the district average lagged behind the state average and the rate of improvement was smaller.

In addition, gaps in performance between racial and ethnic groups have persisted. In reading, white students in Fresno have outperformed African American and Hispanic students by 30 to 39 points, although the gaps have narrowed in recent years, particularly in elementary and middle school. In mathematics, white students outperformed African American and Hispanic students by between 29 and 52 points, and the gaps widen in grades 4 and 8. More recently, between 1999 and 2001, in fourth grade reading and math, FUSD has begun to close the gaps between white students and Hispanic and Asian students, although individual schools have varied in this regard. Gaps of approximately 30 points between white and African American students, however, have remained largely unchanged over this same period (see Figures 11 and 12.)

A. Instruction for English Language Learners

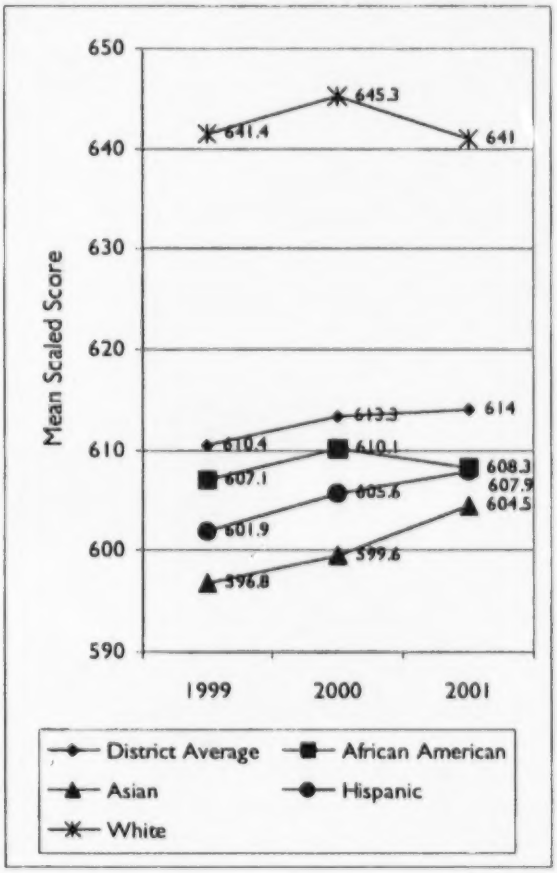
In April and May of 1995, the U.S. Department of Education Office of Civil Rights (OCR) and the CDE conducted a joint review of Fresno Unified School District with respect to its programs and services for language minority students. As a result of the deficiencies identified in the review, OCR and CDE agreed that the district needed to address the following issues: assessment of limited English proficient students in oral language, reading, and writing in English and the primary language; access to English language development services appropriate to each student's level of English proficiency; access to the full age- and grade-appropriate content of the district's curriculum; implementation of criteria to ensure an exit from the program for students when they become proficient in English; provision of appropriate notification to parents who are limited English proficient; assignment of appropriately qualified teachers to provide instruction to LEP students; and administrative mechanisms to ensure program implementation.

The district agreed to fully implement all terms of the compliance agreement, which was to be in effect until June 30, 1999. Dur-

ing this time, OCR and CDE were to monitor the agreement. Monitoring was to include the submission of reports and data, interviews of district staff and visits to district sites and offices by OCR and CDE staff, and review of district documents at district offices and sites.

Fresno Unified School District has reconfigured its program for ELLs in order to align itself with the guidelines for Proposition 227, the 1998 ballot initiative that limited the use of primary-language instruction in the state. As a result of the change, Fresno now offers a program of instruction in which all ELLs below a specified English fluency level receive Structured English Immersion, which includes daily English Language Development as well as content instruction in English with primary-language support. Language arts instruction in the primary grades is also offered in this model when staff are available. Additionally, the district offers two alternative bilingual program options, a two-way bilingual program (at two elementary sites) and a transitional bilingual program at various sites across the district. These programs are offered for children whose parents requested waivers from Proposition 227 restrictions. Currently the district has granted 1,117 waivers for Spanish bilingual programs and 190 Hmong waivers. It is also estimated that an additional 350 waivers (300 Spanish and 50 Hmong) will be granted for students in a year-round school. The reconfiguration of programs for English language learners has sharply reduced the need for bilingual teachers, once a serious concern for the district.

Figure 11. Fresno Unified School District Stanford 9 Scores in Fourth Grade Reading, by Major Subgroups



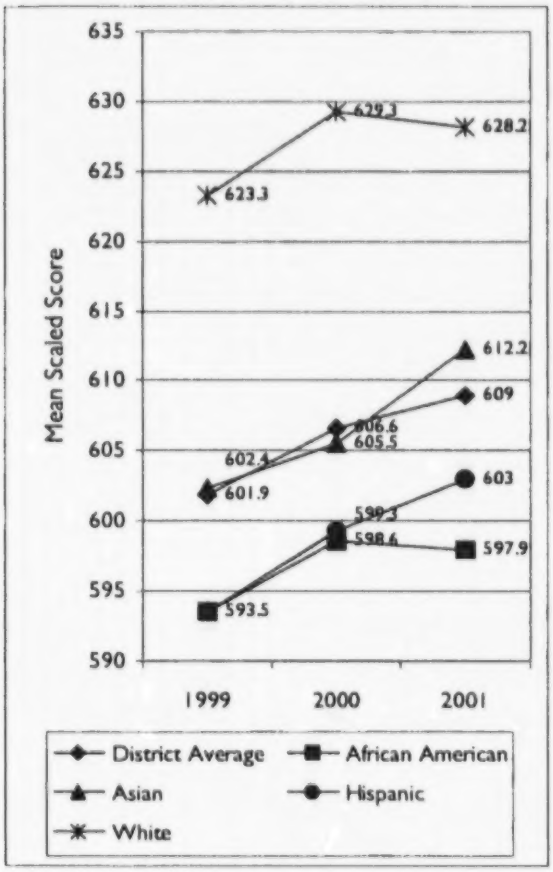
Source: California STAR School Summary Report <http://star.cde.ca.gov>

II. Standards, Assessment and Accountability

A. Standards

Fresno developed content and performance standards before state standards were in place. The standards outline in detail what students in each grade should know and be able to do in language arts, English language development, mathematics, history/social science, science, music, visual and performing arts, technology, health, and physical education. The standards also indicate the type of work a student should be able to do to meet the standard, and assignments and tasks that might be used to collect evidence that a student is meeting the standard.

Figure 12. Fresno Unified School District Stanford 9 Scores in Fourth Grade Math, by Major Subgroups



Source: California STAR School Summary Report <http://star.cde.ca.gov>

For example, the first language arts standard for Grade 4 states:

> *The student reads extensively, and in depth, District recommended literature and other materials of similar quality illustrated in the District's fourth grade reading list.*

Types of work a student should be able to do to meet the standard:

- Student reads and understands grade-level appropriate material. In addition to their regular school reading, students read one-half million words annually, including a good representation of grade-level appropriate narrative and expository text (e.g., classic and contemporary literature, magazines, newspapers, online information);
- Successfully completes lessons and activities using the current fourth grade adopted textbooks;
- Reads narrative and expository texts;
- Recognizes and uses structural feature patterns found in informational text (e.g., compare and contrast, cause and effect, sequential-chronological order, proposition and support) to strengthen comprehension.

Assignments and tasks that might be used to collect evidence that a student is meeting the standards include the following:

- Read, compare, and contrast fiction and nonfiction (tall tales, myths, fantasies, articles, essays, etc.);
- Read and appreciate a variety of literary genres;
- Maintain a reflective journal/log in content areas;
- Maintain annotated lists as evidence of self-selected and teacher-directed works: a wide range of material, traditional and contemporary literature, a variety of cultures, at least three different genres, and at least five different writers;

Figure 13. Fresno Unified School District Elementary Schools Meeting API Growth Targets

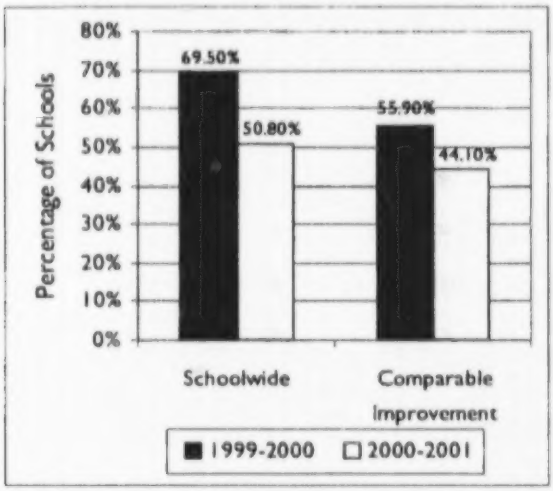


Figure 14. Fresno Unified School District Middle Schools Meeting API Growth Targets

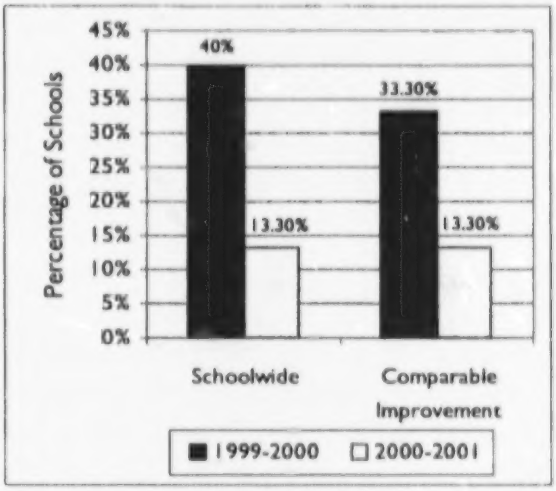
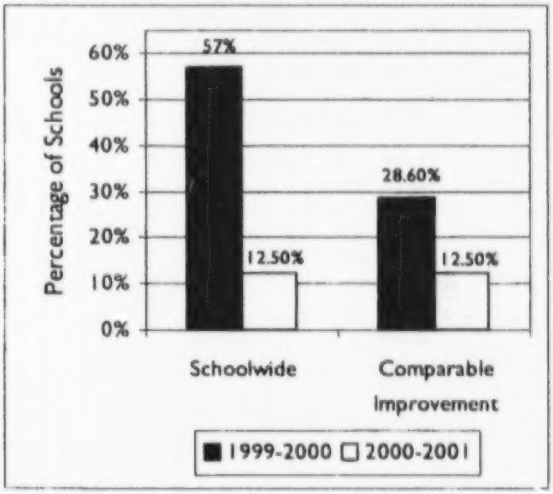


Figure 15. Fresno Unified School District High Schools Meeting API Growth Targets



Source for charts on this page: California Department of Education Academic Performance Index <http://api.cde.ca.gov>

- Maintain reading log of books, articles, projects, technology, etc., including non-fiction and reference materials;
- Response journals across the curriculum;
- Literature discussion groups;
- Read classic and contemporary literature, magazines, newspapers, online information;
- Read selections in Recommended Reading in Literature for kindergarten through eighth grade.

B. Assessment

Fresno's assessment system has been in a state of transition because of changes in state law. For 10 years, until 1996, the district used the Individual Test of Academic Skills, a test developed for a consortium of California districts. In 1996–97, state law required districts

to choose a test from among a state-approved list. Fresno chose TerraNova, a commercially available norm-referenced test published by CTB/McGraw-Hill, because it appeared to match the district curriculum. The district also chose the SABE 2, a separate language assessment, for Latino ELLs. In 1997–98, in response to another change in state law, the district administered the SAT 9, which was mandated for use statewide in grades 2–11. And in 2001, the district began implementing the statewide High School Exit Examination.

1. Local Assessments

In addition to the statewide test, Fresno schools use a variety of other measures to assess student performance. All of the measures are used to determine school progress toward standards.

One measure is a writing assessment. All students in grades K–6 and grade 8 complete a writing sample. The writing samples are scored on a six-point scale using a scoring system uniform across the district. The district plans to expand the writing assessment to high schools, and has conducted a pilot study of high school writing in two schools.

The district also has implemented an assessment to measure performance against standards in reading, mathematics, and language. Known as the Assessment of Baseline Curriculum (ABC), the test, developed by the Northwest Evaluation Association and used in a number of districts, also provides comparisons with national averages. The ABCs, administered in grades 3 through 9, replaced a "rating" system that measured student performance against district standards in literacy, which was considered too subjective.

Grades are also a significant measure of student performance in Fresno, and the district has developed a sophisticated system for tracking student grades. For elementary school students, teachers record student grades for reading/language arts and mathematics on scannable sheets. For secondary students, the district has created an electronic grade history data base, which includes grades in language arts and mathematics courses.

To help ensure that classroom grades are valid, the district publishes Classroom Reports, a document that summarizes norm-referenced test scores, content grades, standards ratings, and writing sample scores for each student. The report is formatted so discrepancies between norm-referenced test scores and the other measures are apparent. Disparities are reviewed by principals to attempt to standardize grading and guard against grade inflation.

On the Student Achievement School Report, assessment scores are reported separately for the following groups: students to whom assistance is targeted (if the program is not a schoolwide program), migrant, LEP, special education, and gifted and talented students.

2. Children With Disabilities and English Language Learners

Consistent with statewide policy, all limited English proficient students in Fresno in grades 2–11 take the SAT 9. LEP Spanish-speaking students who have been in California schools less than 12 months and those who were receiving instruction in Spanish take the Spanish Assessment of Basic Education (SABE 2). LEP students speaking languages other than Spanish take the SAT 9.[12]

Similarly, all children with disabilities were assessed with the SAT 9 or SABE 2 unless Individualized Educational Plans (IEPs) specifically stated that they should not be administered a norm-referenced test. Students with disabilities could take the assessments with accommodations; the district used state guidelines for determining acceptable accommodations.

C. Accountability

The numerous changes in state law have substantially changed Fresno's accountability system. Prior to 1998, when the state allowed local districts to design their own accountability measures, Fresno used its own formula to judge whether schools were in need of program improvement. Under the Fresno system, a school was eligible for program improvement if fewer than 40% of its students met grade-level standards, based on a combination of test scores, grades, teachers' ratings on standards, and a writing sample. The algorithm the district used employed a compensatory model, under which some students could have scored as low as the 30th percentile on a norm-referenced test and still met grade-level standards.

Based on this definition, seven schools in the district were identified for program improvement. Two schools were in program improvement for two years; five were new in the 1998–99 school year.

Beginning in 1999, when the state accountability system was implemented, schools were identified if they failed to meet targets for adequate yearly progress based on the gain in the API. However, the district still requires that multiple measures be used to determine adequate yearly progress and to identify schools in need of improvement. District personnel stress that, regardless of changes in state policy, the use of multiple measures continues to be a requirement of the federal Title I law and state that the district is complying with federal law.

Each school identified for Program Improvement has to develop or revise its School Site Plan in ways that have the greatest likelihood of improving student performance. As part of the plan, schools must use not less than 10% of Title I funds for professional development over a two-year period. The school makes the revisions in conjunction with the school leadership team, Division Office, and the Districtwide Curriculum Team. The revised plan must be reviewed and approved by the Division Superintendent, the Title I office, and others.

The district has identified districtwide curriculum teams to provide technical assistance to individual school sites. The team reviews student achievement data and the school site plan and, based on this information, develops a technical assistance plan for the school. In addition, a resource teacher works very closely with schools. A consultant works with the teachers, watches them teach, and helps them implement best practices.

III. Title I Funding

In the years studied the Fresno Unified School District received approximately $25 million in Title I funds. The district allocated varying amounts to schools depending upon their enrollments of students from low-income families. Schools with 75–100% poverty, as determined by the number of students receiving free and reduced lunch, received $461 per pupil. School with poverty rates of 74–65% received $361, and those with poverty rates between 54% and 35% received $161 per pupil.[13]

In 1999, FUSD administrators provided the following information to commission staff about their allocation of Title I funds. In that year, of the total Title I allocation to the district, 15% remained in the district office, an amount similar to that in other districts around the country. Of this about a third was used for research, evaluation, and assessment, a third went to the Title I office, and a third to the office that provided professional development. The district also held out $1 million a year for preschool programs; 22 such programs were run through the district. These funds were matched with state preschool funds. An additional $25,000 was used to serve homeless children not in Title I schools, to supplement federal funds avail-

able for homeless children. Funds for homeless children covered tutors, some supplies, two case workers, Saturday schools, and breakfast and lunch programs for about 800 homeless students.

The district allocation of Title I funds to schools was made based on the percentage or number of poor children in the schools. The district ranked each school based on the proportion of poor children, then allocated funds to schools based on their ranking. The district used a "35 percent" rule, meaning that schools received funds if at least 35% of their students were poor. District officials said this formula meant that the maximum number of students in the district could receive supplementary services; however, such a system has the effect of spreading resources thin.

Because of the high concentration of poverty in Fresno, nearly all its Title I schools are eligible to operate schoolwide Title I programs. Most eligible schools opted for this approach. In contrast to conventional Title I funding, which is targeted at students who meet academic eligibility criteria, schoolwide programs provided funds to schools in which more than 50% of the students are poor. The idea was to enable schools to use funds to support school improvement, rather than individual remediation.

Decisions about how to spend Title I funds have been made at the school level. The Fresno Unified School District has granted school site councils at each school considerable authority, including authority over the use of Title I funds. The councils consulted with Title I parents in the development of a plan based on a needs assessment. Program managers at each site assisted by coordinating instruction and providing the auxiliary and fiscal management of the program. The district central office, meanwhile, provided support to each school principal and program manager on the interpretation of the laws, effective practices, district evaluation, and coordination of funds for budget and audit purposes. The district also provided training to the local sites in how to undertake a comprehensive needs assessment, write a site plan, and analyze data.

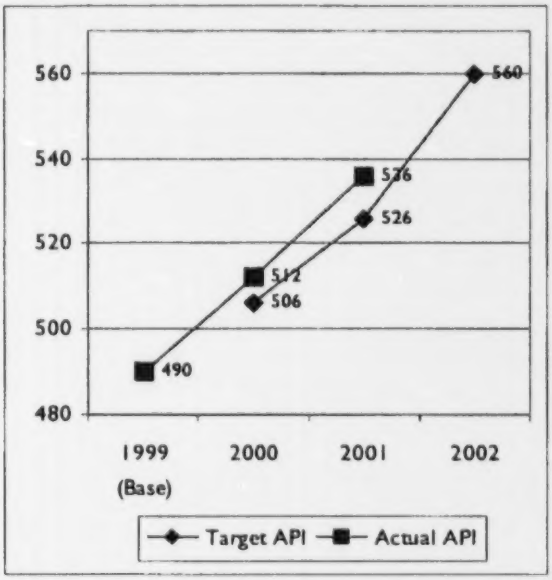
The district also received migrant education funds from Title I to serve their large migrant population. Although the county has administerd the migrant program, the district anticipated this change and hoped to receive migrant funds directly from the federal government. This would enable FUSD to administer the program as well as to provide services to students. Currently, there is a director of migrant education at the district level who works with the 14 sites that have migrant education teachers and also provides information to other sites about migrant education.

To examine practices at the school level and the effect on schools of policies at the state and district levels, the Citizens' Commission conducted an in-depth analysis of two elementary schools in the Fresno Unified School District.

IV. Ayer Elementary School

Ayer Elementary School is a K–6 school located in a diverse neighborhood in Southeast Fresno. The student population is approximately 40% Hispanic, 28% African American, 18% Caucasian, 13% Asian, and 2% Native American. The school has 910 students, of whom 60% qualify for free or reduced lunch. Eighteen percent of the students are identified as English language learners, 103 have been identified as GATE (gifted and talented education), and 117 participate in special education. Ayer Elementary School staff consists of 43 full-time teachers, 2 administrators, and 4 full-time and 25 part-time support staff. All but two of the regular teachers and one of the special-education teachers hold teaching credentials; 9% have advanced education degrees. The school provides breakfast for eligible children and after-school supervision.

Figure 16. Ayer Elementary School Academic Performance Index



Source: California Department of Education Academic Performance Index <http://api.cde.ca.gov>

Ayer's transiency rate is high — 48% — because many families are evicted from their homes or move frequently. The school has also found it difficult to find qualified bilingual teachers, and because ELLs comprise a small proportion of the overall school population — 160 of 920 children — Ayer receives a limited amount of additional state funds that can be used for language assistance needs.

A. Student Outcomes

In 2000, Ayer exceeded its growth target on the state's Academic Performance Index. Based on its performance on the SAT 9, the school increased its score on the index by 22 points between 1999 and 2000, from 490 to 512 (on a scale of 200 to 1000). Moreover, African Americans, Hispanics and socioeconomically disadvantaged students exceeded their growth targets. However, despite the gains, the school did not qualify for cash awards from the state because Asian students did not meet their growth targets (in fact, their performance declined from 1999).

Moreover, Ayer's performance placed the school in the lowest 10% of schools statewide, making it eligible for Title I program improvement in 1999–2000; in 1997, Ayer had been selected by the state as a California Distinguished School. The school exceeded the district average on the SAT 9 in reading and mathematics, but performed well below the district and national averages in language. On the district's ABC tests, Ayer performed substantially below national averages in reading, and just below the national average in language and mathematics.

Within the school, large achievement gaps persist. Although all ethnic groups except Asians improved their performance between 1999 and 2000, all groups performed well below the school average.

B. Title I

As with all schools in Fresno, decisions about how to allocate Title I funds are made by the school site council. After examining school portfolios from the district office, which report data on student achievement, attendance, dropout rates, transiency, suspension rates, and parent satisfaction, the Ayer council elected to spend its Title I allocation mostly on instructional support in reading. For example, the school uses Title I funds to pay part of the salary of a reading teacher. She coordinates the entire reading program and provides training for other teachers. The school has used Title I funds to train third grade teachers to work with beginning readers, something they were not trained to do. Title I also provides funds to support 10 instructional aides, who provide instruction in small groups for grades K–3 for an hour a day (one and a half hours in kindergarten).

Ayer uses funds to support six certified teachers who work as tutors with students in grades 4–6 in both reading and mathematics. According to the principal, this is an important use of funds because class sizes at these levels often exceed 30 students. A modified form of the Reading Recovery system is used and the children are carefully monitored.

Title I also funds a computer-lab assistant, who manages the lab and trains teachers in the use of technology, as well as some classroom computers.

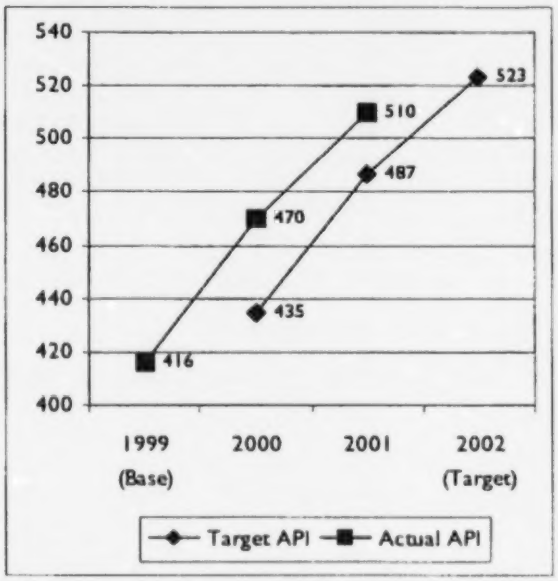
C. Special Services for English Language Learners

Two classrooms are designated as bilingual (one K–1 and one 2–3). Students are instructed in English and Spanish and for one hour a day they receive "formal" instruction with English-only peers in science and social science. Once they reach third grade they receive instruction in math with English-only peers. ELLs in grades 4–6 are placed with teachers who have a CLAD credential and have a bilingual instructional assistant in the classroom for 1.5 hours per day. ELLs in grades 4–6 who are not making progress receive tutoring from certified tutors (paid through Title I LEP funds).

The school has provided professional development in English language development for mainstream teachers. Some teachers have CLAD certification or are in the process of getting it. Teachers also receive training in how to work with students from cultures other than their own.

ELLs new to the districts are assessed in English and their primary language in a district intake center. Teachers monitor the progress of ELLs through a skills folder. Parent involvement is limited but teachers work with bilingual staff to communicate with parents. There is also a bilingual vice principal, and two bilingual office staff. Other interpreters are available through the district office.

Figure 17. Homan Elementary School Academic Performance Index



Source: California Department of Education Academic Performance Index <http://api.cde.ca.gov>

V. Homan Elementary School

Homan Elementary School is a preschool through sixth grade, multi-track, year-round school located in the Southwest part of Fresno. Its culturally diverse 888-student population is 49% Hispanic, 21% Southeast Asian, 17% Caucasian, and 10% African American. Ninety-three percent of Homan Elementary School's students qualify for the Free/Reduced-Price Lunch program, with more than 58% of students receiving public assistance. Approximately 45% of students are identified as English language learners.

Homan staff includes 47 teachers, 2 administrators, a guidance instructional specialist, four part-time certified tutors, 38 classified employees (16 bilingual special instructional

assistants, 16 instructional aides, 1 six-hour computer aide, 2 three-hour bilingual home/school liaisons, 1 Title I secretary), 4 special education aides, and 2 preschool aides. All but one regular-education teacher and two special-education teachers hold regular teaching credentials; 8% hold advanced education degrees.

Other programs include a counseling program through Fresno State University in which counselor-trainees, under the supervision of school staff, work with children and families. A National Science Foundation Urban Systemic Initiative grant funds an extended-day math and science program for students in grades 4–6. The school has a Central Valley grant to purchase books for the after-school program for Hmong children.

The school's instructional program has been heavily influenced by state standards. The school chose its textbooks (Macmillan in language arts, Mathland in mathematics) because they considered them closely aligned to the standards. The state test, the SAT 9, has also influenced classroom practice, according to teachers. Teachers like the fact that the test helps them make lessons more focused. However, they are concerned that the test may be too limiting and that it does not encourage the development of students' conceptual knowledge. The faculty has supplemented the SAT 9 with local assessments intended to provide a broader picture of student abilities. These include portfolios, writing assessments, and "running records" that track students' progress in reading. The school has also purchased a series of books that indicate their reading level, to provide teachers with a measure of students' reading skills.

Homan places a strong emphasis on professional development. Students are dismissed at 1:15 p.m. every Monday, to provide time for staff development activities. The staff rates the district's professional development efforts highly, particularly the language arts and mathematics specialists who provide peer coaching and demonstrations at the school site.

A. Student Outcomes

In 2000, Homan qualified for cash awards under the state accountability system. The school substantially exceeded its growth target on the API, increasing from 416 to 470 (on a 200–1000 scale), far above the 19-point target. In addition, all numerically significant subgroups exceeded their growth targets; Asian students (the second largest group in the school) and socio-economically disadvantaged students made substantial gains.

Despite the increases, Homan students perform well below national averages on the SAT 9, and the school was identified for Title I program improvement in 1998–99, the year after it was recognized as a California Distinguished School by the California Department of Education. In reading, students' performance ranged from the 19th to the 29th percentile; in mathematics, from the 27th to the 36th percentile. On the district's ABC tests, the school's performance was closer to the national average, but still below.

The large increases in performance in 2000 narrowed the racial and ethnic achievement gaps in the school, but the gaps still remain. Asian students performed slightly above the school average, and Hispanic and socio-economically disadvantaged students performed slightly below the school average. However, white students far outperformed all other groups.

B. Title I

Homan has decided to dedicate much of its Title I funds to provide instructional support in literacy. Tutors (who are certified teachers) work with five to six children each in an extended-day program for one hour a day, one to three days a week. In addition, four part-time tutors help children with particular needs with literacy in grades 4–6. One is as-

Figure 18. Ayer Elementary School
Academic Performance Index Growth by Major Subgroups

	1999-2000					2000-2001				
	1999 API (base)	Growth Target	2000 API (growth)	Met Growth Target	Awards Eligible	2000 API (base)	Growth Target	2001 API (growth)	Met Growth Target	Awards Eligible
School Average	490	16	512	Yes	No	512	14	536	Yes	No
African American	460	13	492	Yes		492	11	495	No	
Asian	478	13	473	No		N/A*	N/A	N/A	N/A	
Hispanic	442	13	478	Yes		478	11	489	Yes	
White	691	13	N/A	N/A		N/A	N/A	N/A	N/A	
Socio-economically Disadvantaged	438	13	458	Yes		458	11	477	Yes	

Figure 19. Homan Elementary School
Academic Performance Index Growth by Major Subgroups

	1999-2000					2000-2001				
	1999 API (base)	Growth Target	2000 API (growth)	Met Growth Target	Awards Eligible	2000 API (base)	Growth Target	2001 API (growth)	Met Growth Target	Awards Eligible
School Average	416	19	470	Yes	Yes	470	17	510	Yes	Yes
African American	N/A	N/A	N/A	N/A		N/A	N/A	N/A	N/A	
Asian	388	15	476	Yes		476	14	520	Yes	
Hispanic	412	15	455	Yes		455	14	513	Yes	
White	485	15	512	Yes		N/A	N/A	N/A	N/A	
Socio-economically Disadvantaged	408	15	468	Yes		468	14	510	Yes	

Source for tables on this page: California Department of Education Academic Performance Index <http://api.cde.ca.gov>.

*N/A indicates that the number of students tested in that category was not numerically significant that year.

signed to each track; they help teachers 45 minutes a day during literacy instruction.

Title I also funds two resource teachers. One assists teachers, purchases materials, oversees the computer lab, prepares the school site plan, and provides parent training. The other resource teacher works with children all day in small groups as well as trains other teachers. Her position was dropped for the 1999–2000 school year. The Bilingual Instructional Aides are paid with Title I funds this year. Next year, state Economic Impact Aid funds will be used for this purpose. Title I also funds the computer-lab aide and much of the instructional material (about $7,000–$9,000 a year).

C. Special Services for English Language Learners

Homan serves approximately 420 students who are English language learners. ELLs are identified through the Home Language Survey and assessed for placement in an appropriate instructional setting by the district assessment center. ELLs are assigned to classrooms by language level and language background; two tracks are predominantly Hispanic and two are Hmong. All ELLs are placed in a structured English immersion program with a certified teacher or one in training to earn a certificate. Students at the three lowest levels of English language proficiency receive access to the core curriculum through the assistance of a bilingual instructional assistant. There are about 15 bilingual assistants, one in each classroom for 1.5–3 hours a day. All ELLs receive daily ELD instruction for a minimum of 30 minutes a day.

VI. Conclusion

With its high concentrations of poverty and large numbers of English language learners and migrant students, the Fresno Unified School District faces considerable challenges in ensuring that all students, particularly disadvantaged students, meet the challenging standards for performance envisioned in the 1994 Improving America's Schools Act. The district has taken several substantial steps toward this goal:

- It has developed its own set of standards for student performance, a sophisticated set of assessments to measure progress toward the standards, and an accountability system to provide assistance to low-performing schools and incentives for them to improve.

- It has sought to distribute Title I funds to as many schools as possible and given them maximum flexibility in determining how to spend the funds.

- It has taken these initiatives in the absence of a clear and consistent direction from the state.

The efforts represent a laudable commitment toward improving education for all children. However, the evidence from the early implementation of the state accountability system suggests that those efforts may not be sufficient.

Specifically, there are concerns that *the locally developed assessments and accountability system may have understated the level of assistance schools need.* Fresno has developed a system that is designed to focus on the right things: it designates schools as needing assistance if large numbers of students are failing to meet standards. Moreover, the district uses multiple measures of achievement, rather than a single snapshot on a state test, to determine if students are meeting stan-

dards. Testing professionals strongly recommend the use of multiple measures because of the limitations of tests.

However, the system allows strong performance on one indicator to compensate for relatively weak performance on another. Thus students who score as low as the 30th percentile on standardized tests may be considered to have met grade-level standards, because of high grades or teachers' ratings on literacy standards. Such a system may mask the number of students who are not meeting standards. As a result, schools that need assistance because of large numbers of low-performing students may not be getting the help they need.

There is evidence to support this concern. In 1997–98, when the state allowed districts to determine the criteria for adequate school progress, only seven schools in Fresno were identified as needing improvement. The following year, when state criteria were put in place, 29 schools were identified as needing improvement.

A second concern is that *the level of resources to assist schools may not be adequate, and the funds that are available may not be put to best use.* Fresno's decision to distribute Title I funds to schools based on a low threshold of poverty was aimed at ensuring that as many schools as possible could participate in the program. But the decision had the effect of stretching thin resources to the breaking point. Schools receive as little as $169 per pupil in Title I funds, hardly enough to make a significant difference.

In addition, the district's decision to allow schools to allocate funds according to local needs was based on the sound proposition that school communities are aware of their own needs and capacities. But the decisions at Ayer and Homan suggest that schools in Fresno may not be using funds in the most effective ways. The funds support a wide range of activities, from reading tutors to computers. There is little evidence that the schools are using research to determine the most productive use of their resources. For example, schools have not adopted research-based reform projects, as many other Title I schools in California and elsewhere have done. This suggests that the schools may not be doing all they can to ensure that their students reach the high standards the district and state have set.

Chapter 5

Findings and Recommendations

[T]he public schools of this state are the bright hope for entry of the poor and oppressed into the mainstream of American society.

— California Supreme Court,
Serrano v. Priest, 1971

Introduction

The No Child Left Behind Act of 2001 was enacted with enthusiastic support from the Bush Administration and with strong bipartisan majorities in the United States Congress. The NCLB builds on major reforms set in motion by Congress in 1994 – measures to improve Title I schools by requiring states to set high standards, to develop assessments to measure fairly schools' progress toward meeting the standards and to institute accountability measures for student progress. NCLB extended many federal programs under the 1965 Elementary and Secondary Education Act, including, most significantly, the $10 billion-plus Title I program serving disadvantaged students. In requiring states to close achievement gaps and to provide assistance to students and educators in failing schools, the legislation holds forth the promise of major improvements in our nation's most troubled public schools.

In this report, the Citizens' Commission on Civil Rights has examined California's progress in meeting Title I requirements. We find that while some progress has been made under the current governor, the state has failed the test. Specifically, we find that:

- California has not complied with Title I provisions calling for assessments and an accountability system aligned with challenging content standards.
- California has not complied with Title I rules providing that all students, particularly English language learners, are effectively included in school reform and improvement.
- California has not ensured, through adequate and equitable funding and other measures, that all districts and schools have the capacity to provide the high-level curriculum and instruction necessary to provide students in Title I schools the opportunity to learn to high standards.
- Federal funding levels and allocation rules shortchange millions of California's poor and immigrant children, who attend schools that are overcrowded and underresourced.
- The relatively small sums of ESEA funds dedicated to meeting the needs of migrant and homeless students have been insufficient to meet the needs of children in California's poorest communities.

- At the local level, in one district with high concentrations of poor and immigrant students, competing, legitimate demands for federal funds exceeded total federal allocations so that the district could not come close to meeting the needs of its most vulnerable children.

What is needed is an effort by political and government officials at all levels — federal, state and local, along with parents, students, educators and civic organizations — to work in concert to address the state's failures to create a coherent system for educational improvement. Without such an effort, hundreds of thousands of children — most of them poor and children of color — will continue to be sentenced unjustly to a future of illiteracy, societal marginalization and economic hardship.

Following are the Commission's detailed findings and recommendations.

Findings

1. The Importance of California

California is perhaps the most critical state in the nation for the movement to equalize learning opportunities. California now receives $1.2 billion from Title I, substantially more than any other state, and 13.5% of the national total. It enrolls 40% of the nation's students with LEP. The numbers of poor and immigrant students continue to increase and these ever-increasing enrollments, coupled with insufficient resources have placed enormous strains on the state's public schools.

California long has lagged behind in providing equal educational opportunity for its poor and minority students. The achievement of its poor, African American and Latino students has lagged behind the rest of the country. The state has consistently found itself challenged in court for not meeting the needs of its most vulnerable children. The results of this record came into relief when the first state-by-state comparisons of student achievement were released by the National Assessment of Educational Progress in the early 1990s: not only did California rank near the bottom of all states in reading and mathematics performance, its African American and Hispanic students performed much worse than similar students in other states with comparable populations.

As in other states, despite long efforts to redress educational inequality, advocates for poor and minority children have been stymied by the state's failure to provide adequate resources to public schools and by other measures, e.g., to limit bilingual education and affirmative action. In recent years, reform measures have been hampered by assessment and accountability policies that have lacked coherence and have failed to comply with federal requirements. Given its size and demography, a failure of NCLB in California would be bad news for school reform in the whole nation.

2. Title I and the Federal and State Roles

a. The most urgent need in public education in California and in the nation as a whole is to remove barriers to success that are faced by poor children, particularly children of color, children with disabilities, and English language learners. The greatest obstacles are faced by children living in concentrated poverty, a condition that disproportionately affects African American, Latino and other children of color.

b. The federal government's role in education is limited, but is critical to ensuring equality of educational opportunity. The national interest in education has been manifested for the past four decades mainly through the civil rights laws and through Title I of the Elemen-

tary and Secondary Education Act of 1965. Title I is now a $10 billion-plus program serving more than 12.5 million students. The federal government has both a legal and a moral duty to ensure that Title I funds are used to close achievement gaps and to enhance educational opportunity for poor, minority and disabled children.

c. The two most recent extensions by Congress of the Title I program provide a framework for increasing the investment in public education and for raising the achievement of poor and minority students. The 1994 and 2001 laws are based on the finding that all children can learn and master challenging material. The laws call for high standards for all and accountability by education officials for student progress. All children are to be assessed and children with disabilities and English language learners are to receive appropriate accommodations. Corrective action is to be taken when schools fail to improve.

d. Whether the 1994 and now the 2001 Title I reforms reach their goals depends to a large extent on the states. States are required to develop content and student performance standards, fair and accurate assessments aligned with those standards, and a system to hold schools and districts accountable for progress. States must provide or secure technical assistance, monitor districts' implementation of program requirements, and intervene to provide remedies to students (e.g. a right to transfer or tutorial services) as well as assistance to low-performing districts. They must also take corrective action, including reconstitution, where necessary. Under both state and federal law, it is the duty of the states to provide sufficient resources to ensure that all students can learn.

3. California's Implementation of Title I Reforms

a. *Early steps (1994–1998).* In prior studies, the Citizens' Commission reported that California's early implementation of Title I reforms lacked coherence and failed to ensure high standards for all students. For example, the state allowed each of its over 1,000 school districts to set their own standards for school progress. The CDE had no reliable way of ensuring that expectations for student performance were ever remotely comparable from one district to the next.

b. *Recent implementation of Title I and related state reforms.* Recent legislative and executive branch policy initiatives have sought to raise standards across the state, to hold educators accountable for improving student performance, and to increase state resources (in areas like class size) to schools. Many of these initiatives (e.g., the development and approval of state content standards in language arts, math, science, history/social science; the beginnings of a uniform, objective accountability system; local improvement plans; and the state system of school support) are in accord with the letter and spirit of Title I and represent some real improvement for the state.

California, however, still has a long way to go before it is in full compliance with federal requirements and before it creates a sound policy framework to ensure equity and opportunity for the state's most disadvantaged students.

i. *Standards and assessments.* California has not complied with Title I provisions calling for assessments and an accountability system aligned with challenging content standards. When there is a mismatch between what the

state says it wants children to learn (its standards) and what it measures and hold schools accountable for (its testing and accountability system) serious problems result. They may include narrowing the curriculum to "teach the test" or working hard only with small numbers of children needed to pass the test in order to meet the state's achievement targets.

- *Content standards.* The state has adopted content standards in English language arts, math, science, and history/social science. By many reports, California's content standards are of relatively high quality and have been cited favorably by the American Federation of Teachers and others.

- *Performance standards.* California did not develop performance standards until late 2002, over four years after the deadline established in the 1994 law. The U.S. Department of Education has not yet determined whether the standards comply with Title I.

- *Aligned assessments.* Unlike other states that have carefully constructed their assessments based on their content standards, California chose to use a nationally norm-referenced multiple-choice test as the centerpiece of its school accountability program. In January 2001, the Clinton Administration informed the state that its assessment, the SAT 9, did not meet Title I's alignment requirement. In November 2002, however, the CDE persuaded the U.S. Department of Education to waive this requirement as part of an overall timeline waiver of a number of Title I compliance deficiencies.

- *Valid and reliable multiple measures of student performance.* Only recently the state replaced locally-based measures with statewide measures for determining "adequate yearly progress" and identifying Title I program improvement schools. But the "adequate yearly progress" definition has been based solely on schools' SAT 9 scores and does not yet incorporate "multiple measures" of student performance required by Title I. Although state education officials have plans to add additional assessment and other measures (e.g. attendance and graduation rates), these measures had not been added during the 2000–2001 school year in time to comply with Title I deadlines under the 1994 amendments.

- *Disaggregation of assessment results.* The U.S. Department of Education (USDE) found that the state disaggregated its assessment by all categories required under federal law, with the exception of migrant students. Significantly, however, the state's API reports for schools report results only by racial/ethnic groups and by socioeconomically disadvantaged students. They do not report results and progress by gender, disability, English language proficiency, or migrant status.

ii. *Inclusion.* California has not complied with Title I provisions requiring that all students, particularly English language learners, are effectively included in school reform and improvement. California's testing policies violate federal law in several important respects:

- The state does not ensure, as required by Title I, that native language assessments are administered to students for whom such assessment would be

more likely to yield accurate information on their knowledge and skills.

- While some Spanish-speaking students are assessed with a test written in Spanish, after one year, the state requires students to be tested in English for accountability purposes. While there are some exceptions to the one-year requirement, even those students are required to take the SAT 9 in English and only the SAT 9 scores are counted in the state's accountability index. Thus, Spanish-speaking students who have attended school in California more than a year, or students who speak or who may have been instructed in other languages, are not given a fair chance to demonstrate their true knowledge and skill. Moreover, California educators are held accountable for ELLs' progress on assessments that may not accurately reflect their students' true academic progress.

- This mismatch between state and federal law has not been addressed adequately by the USDE.

- Overall exclusion rates are excessive. The USDE found more than 900,000 students were excluded from the accountability system, including ELLs, students with disabilities, and others.

c. *Accountability*. California has made substantial progress in the area of accountability and has the potential to set the standard for other states. Specifically:

- The state is moving toward a statewide accountability system that, consonant with Title I, has begun to hold all schools and districts to the same standards for student progress. In moving away from its earlier locally-defined accountability measures, the state has taken a major step toward compliance with federal requirements for one statewide system. It is now better positioned to eliminate the dual standards for student performance that occur when standards are set locally.

- The state has implemented a comprehensive system of public reporting on school and district progress, including reporting disaggregated results for some subgroups, including major racial and ethnic groups and socio-economically disadvantaged students.

- California, along with Texas, is also in the forefront of states that have begun to hold schools accountable for the progress of all students, including subgroups of minority and low-income students. Because the NCLB now requires "adequate yearly progress" for all major racial groups, for disabled students and for ELLs and poor students, other states will want to learn from California's early experience with its model of "comparable" growth.

- California has established a statewide system of support and technical assistance. Although the assistance is not yet sufficient to meet the vast needs of the state's schools, the infrastructure has been established on a regional basis across the state and has the potential to be useful in assisting schools identified for school improvement and corrective action.

- California has established a system of rewards for school success, as well as a program to provide additional assistance to the lowest performing schools. The state has used a combination of state and federal funds to support these initiatives.

Yet, California's accountability system continues to be mired in controversy and faces considerable criticism from various sectors, and does not yet meet federal requirements. For example:

- The fact that the accountability system has relied solely on one measure — the STAR testing system — means that rewards and corrective action are based only on this limited measure of school progress. This is particularly troublesome for many educators, parents and others because the tests are not fully aligned with the state's content standards. Nor has the state made adequate provisions to test disabled and LEP students using appropriate measures or accommodations.

- The progress required by California for each subgroup within a school is only 80% of the progress required for the school as a whole. While more study may be needed, the policy has led some advocates to question whether this system "codifies the gap" between rich and poor and between white students and students of color. Such a system also may not be fully compliant with the new NCLB requirements for adequate yearly progress.

- The amount of money available to low-performing schools is likely to be woefully inadequate to address all the needs of these schools, including the need for qualified teachers.

d. *Resources and capacity-building.* California has not ensured, through adequate and equitable funding and other measures, that all districts and schools have the capacity to provide the high-level curriculum and instruction necessary to provide students in Title I schools the opportunity to learn and to achieve high standards.

While the state, under new political leadership, pumped substantial new funding into elementary and secondary education, the lagging achievement of California's poor and minority students suggests that greater efforts are needed to ensure all students have sufficient opportunities to learn. Moreover, recent budget shortfalls threaten to undermine the state's education reforms, to erode public support for school accountability programs, and to reduce the capacity of high-poverty schools to meet standards. Further, state policymakers should heed early signs that well-intended measures may have perverse effects. For example, in reducing class size, many children in high-poverty schools and districts are left without fully qualified teachers or adequate classroom space. In addition, although the state has developed content standards in science and social science (as well as English language arts and math), extensive teacher training and curriculum development initiatives may be needed to ensure that state testing and accountability policies do not result in a narrowing of the curriculum and an undue focus on teaching to the standardized test.

4. School District Implementation in Fresno

- Like many other school districts with high concentrations of poverty and large numbers of English language learners and migrant students, the Fresno Unified School District (FUSD) has faced considerable challenges in ensuring that all students have the opportunity to achieve high standards. The Commission's 1999–2000 investigation revealed that the district had undertaken a number of reforms and improvement efforts

in the absence of clear and consistent direction from the state. For example, the district developed its own set of standards for student performance, a set of assessments to measure progress toward the standards, and an accountability system to provide assistance to low-performing schools. It successfully negotiated an agreement with the federal Office for Civil Rights to increase services provided to English language learners. It also sponsored exemplary programs to provide supplemental services to a growing population of homeless and transient children by combining Title I and other federal and state resources.

- Fresno's locally-based accountability system, however, may have failed to identify the number of schools in need of improvement, and thus, shortchanged students in schools where intervention may have been warranted. In 1997-98, when the state allowed districts to determine the criteria for adequate school progress, only seven schools in Fresno were identified as needing improvement. The following year, when state criteria were put in place, 29 schools were identified as needing improvement.

- The district sought to distribute Title I funds to as many schools as possible and give them maximum flexibility in determining how to spend the funds. The result of this approach, coupled with inequities built into the federal interstate formula, however, was that the highest poverty schools in Fresno received less per poor child than the national average for such schools, and significantly less than in high-poverty districts in East-coast jurisdictions reviewed by the Commission. Some Fresno schools received as little as $169 per poor pupil in Title I funds, hardly enough to make a significant difference.

- In addition, the Title I schools studied were forced to make tough choices about how to spend their allocations, e.g., to decide between hiring a counselor or a reading teacher, or between staff to provide additional tutoring services or to reach out to troubled families to improve attendance. While Title I funds in Fresno were used to support a wide range of permissible activities under the law (including reading tutors, computers, Saturday academies, etc.) there was little indication that the schools were using research to determine the most productive use of their resources. For example, at the time of the case study, the system reported that it had not tried to adopt research-based reform projects (e.g., Reading Recovery or Success for All) as some other Title I schools in California and elsewhere had done. In the judgment of district administrators, such interventions were too costly and could not be justified given the other demands on Title I and related state funds.

5. The U.S. Department of Education's Record in California

In years immediately following enactment of the 1994 amendments to Title I, the Citizens' Commission found that the USDE defaulted on its enforcement obligations with respect to the state of California. By allowing the state to continue to maintain locally-based assessment and accountability systems, it permitted the perpetuation of a dual system of lower standards and expectations in the districts and schools most in need of improvement. In the final months of the Clinton Administration, the USDE began to toughen its stance toward California and other states. In January 2001, the Department made de-

tailed findings of noncompliance by the state with key provisions of Title I designed to protect and advance the interests of poor children and children of color in the state's public schools. Among the Department's major findings were that California's assessment system:

- was not aligned with content standards,
- failed to include multiple measures of higher order skills,
- and had unacceptably high rates of exclusion.

In addition, the state had failed to develop the performance standards required by the 1997–98 school year.

In light of the extent of the violations, then-Assistant Secretary Michael Cohen informed the CDE that it would need to enter into a detailed compliance agreement with the USED in order to keep its federal funds flowing (see appendix).

California still has not satisfied requirements of federal law. On November 13, 2001, Assistant Secretary Susan B. Neuman identified many of the same deficiencies in a letter to state superintendent Delaine Eastin. Yet, despite this substantial noncompliance, the Bush Administration appeared to yield to pressure from California officials and instead granted the state a two-year waiver of federal requirements.

7. The Role of Congress

Federal funding levels and allocation rules have shortchanged millions of California's poor and immigrant children, many of whom attend schools that are overcrowded and under-resourced. The Commission's findings are bolstered by research conducted for the national assessment of Title I. Although recent increases in Title I and other ESEA programs may mitigate some of the disparity, Title I remains severely underfunded. Other federal programs — including those serving LEP, disabled, immigrant, homeless and migrant children — supply only a fraction of the cost to school districts of meeting the substantial educational and support service needs of such students. While calling for increases in Title I, the President's recent budget proposals for FY2003 do not come close to meeting these needs. If Congress does not ensure that the federal government's responsibility for the education of disadvantaged children is met, the concept of the NCLB will never become a reality for children in California and other states.

Recommendations

The Citizens' Commission recommends that:

1. **The Federal Government Should Vigorously Enforce the Law and Increase Its Investment in Public Education**

   a. The USED, recognizing that California is key to the success of federal school reform, should exercise continuing vigilance to insure that the state take the necessary specific measures, including those listed below, to come into compliance by November 2003.

   b. Congress should fully fund Title I and related programs to address the supplemental needs of disadvantaged children (including after-school programs, programs to improve teacher quality, and those designed to provide for the needs of homeless, migrant, immigrant, and neglected and delinquent children). Congress should also continue to address interstate funding inequities that have robbed California's children of extra dollars to improve their schools.

c. Congress should increase appropriations for Title I, while maintaining and improving targeting. And ensure that both through Title I Part A (as well as through other ESEA funding streams) that students who are poor, homeless or from migrant or immigrant families are provided with the quality teaching and other support they need to succeed in school.

d. The Bush Administration should promulgate extensive federal guidance on fair testing that was developed under the Clinton Administration with broad input from the civil rights community, test publishers and others. The federal Office for Civil Rights should examine plans for high school exit examinations in California (as well as in other states) to ensure they do not run afoul of federal civil rights protections.

2. California Officials Should Implement and Enforce the Law

These include the governor, the legislature, the State Board of Education, and the officials at the CDE. They must redouble their efforts to ensure that California develops and implements a standards-based system that includes all necessary elements of fairness, alignment, capacity-building, and resources.

3. California Must Ensure Full Inclusion of All Students

California's exclusion of nearly one million children from its accountability system is inexcusable. Officials at all levels should require that all students be tested for school and district accountability purposes, and that they be tested in the language and form most likely to yield accurate information about their knowledge and skills.

4. California Should Guard Against "Supplanting" and Other Violations of Federal Spending Requirements

State budget shortfalls in California and elsewhere cannot be an acceptable excuse for violating important federal requirements of "maintenance of effort" and that federal funds supplement and do not supplant state and local dollars.

5. California Officials Should Ensure That Guidelines for Fair and Appropriate Uses of Tests are Followed in California

California should not impose exit examinations on high school students until it has ensured that the curriculum is aligned with the standards to be measured so that students have a fair opportunity to pass the assessments.

6. Educators and Government Officials, Along with Parents and Advocates, Should Collaborate and Undertake Broad Efforts to Ensure That All Children in California Have a Meaningful Opportunity to Learn

There is evidence from implementation of the 1994 law that Title I reforms, done right, can be a powerful set of tools to improve outcomes for poor and minority students. Provisions in the NCLB of 2001 can enhance this potential. California has only recently been called upon to come into compliance with key provisions in the 1994 law designed to safeguard the interests of historically underserved children. State officials should announce their intention to fully comply with federal law and should seek the input of a broad cross-section of stakeholders in devising their plans for compliance.

Conclusion

California's plans for final Title I assessments for accountability under a law passed by Congress in 1994 still have not met the requirements of that law. Both state and federal officials have abdicated their responsibilities to make sure that, in the state receiving more Title I funds than any other, both the letter and spirit of Title I are carried out so that all children are fully included and none are left behind. To the contrary, California's education policies in the areas of testing, accountability, and funding continue to leave many children behind, principally children of color, those with limited English skills, and those from low-income families.

At the federal level, the Congress has failed to fully fund Title I and other important education programs, while the U.S. Department of Education, charged with carrying out the law, has had little or no resolve with respect to California.

Unfortunately, despite enactment of the NCLB and recent improvements in California's performance, there is little objective evidence that the political will exists at either the federal or state level to transform the state's public education system into one that serves all children. Both state and federal education officials are challenged to devise a compliance and implementation plan for California — and to support the provision of adequate resources — that will make good on the promise of Title I to ensure that all students have an opportunity to learn and that none are left behind.

Appendix

Letter from Michael Cohen, former Assistant Secretary of Education, to California Superintendent Delaine A. Eastin

January 19, 2001

Honorable Delaine A. Eastin
Superintendent of Public Instruction
California Department of Education
721 Capitol Mall
Sacramento, California 95814

Dear Superintendent Eastin:

I am pleased to have had an opportunity to work with you and your staff and with the Governor's office over much of the last year to determine the progress that California is making toward meeting the Title I requirements for standards, assessments and accountability. I know that we all share the goal of having, as soon as possible, a full and functional assessment system that supports education improvement in California and that meets the Title I requirements. These requirements are intended to ensure that every school and school district participating in Title I is focused on improving results for all students, as defined by the State's own academic standards.

After reviewing the assessment evidence and timelines submitted by California in May, and additional evidence that was reviewed in September 2000, it is clear that California is substantially out of compliance with sections 1111 and 1116 of Title I of the Elementary and Secondary Act of 1965. In order to remain eligible to receive Title I funds, California must enter into a compliance agreement with the U.S. Department of Education specifying the steps the State will take, and the timeline for completing them, in order to fully meet the Title I requirements.

We summarize below the major Title I requirements, our judgment of California's compliance status, and the steps that must be addressed in order to meet the requirements. Many of the specific instances of noncompliance discussed below result from California's failure to complete development and implementation of assessments that are aligned to State content and performance standards, and use the results of these tests to hold schools accountable for the performance of all students. Consequently, California can comply with many of these requirements if it follows through on its plan to develop and implement a standards-based assessment in a timely fashion, and if it pays careful attention to the specific Title I requirements in the process.

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However, based on our recent conversations, there are a number of issues in which it is not yet clear that California intends to fully comply with the Title I requirements. These include, for example, providing the full range of accommodations for the standards-based assessment that will maximize its validity for limited English proficient students, and providing an alternate assessment for students with disabilities who are unable to participate in the regular assessment. For these issues, California will remain out of compliance - and place Title I funding in jeopardy — unless it alters its current plans or provides more complete and compelling evidence that its current plans in fact meet the Title I requirements.

Final Assessment System: Title I requires that for the purposes of school accountability, States administer assessments yearly to students in at least reading/language arts and math, in three grade spans (between grades 3-5, 6-9 and 10-12). Title I also requires that State assessments be aligned to State content and performance standards, and that the assessment systems use multiple measures that assess higher order thinking skills and understanding.

California does not meet these requirements. Given the information you have provided to us, California's assessment system cannot meet these Title I requirements until 2002 at the earliest, assuming that the work currently being planned is completed on the timetable you have laid out. Because the current plans call for assessments in mathematics, language arts, science and history/social sciences to be administered in grades 9-11 in 2002, the fact that the High School Exit Examination (HSEE) will not be included in the accountability system until 2004 does not further delay the prospects for meeting the Title I requirements.

California submitted for review information on the Stanford Achievement Test, Ninth Edition (SAT-9), and the California Standards-Based Test (which is the augmented SAT-9) that will be implemented by 2002 in English language arts and mathematics in grades 2-11 and science and history/social science in grades 9-11. While valuable, the SAT-9 is not aligned State standards.

Based on the series of conversations we have had, we understand that California's plan for a new standards-based assessment is still evolving, though the commitment among state education policymakers to standards-based assessment as the primary means for school accountability is growing. The current plan, as we understand it, will involve augmenting the SAT-9 with additional items aligned with State content standards as the basis for the standards-based assessments in reading and math to be initially administered

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in 2002. In subsequent years, however, the State will administer a standards-based test (hereafter referred to as "stand-alone test") that is completely separate from the nationally normed test already being administered. Further, we understand that the California legislature is expected to take this issue up in the coming legislative session, as the underlying state testing statute will sunset and need to be reauthorized. We hope that this reauthorization process will keep California on the fastest possible track to develop and implement a high-quality standards-based assessment, as required by Title I.

Given the information submitted to the U.S. Department of Education for review, California does not yet meet the requirement for multiple measures that assess higher order thinking skills and understanding. Title I does not require any particular mix of test item formats. It simply requires that the State clearly demonstrate that the mix of item formats it has chosen is aligned to State content standards and adequately measures the higher order skills incorporated into the State's content standards. The assessment components that are being added may help California fully meet this requirement, but we could not make a judgment on that issue based on the information available to us.

Performance Standards: Title I required that each State submit evidence of performance standards that describe three levels of performance aligned to content standards for each of the three required grade spans by the 1997-98 school year.

California does not meet this requirement, and the earliest it can be met is Spring 2002. The performance standards in English-language arts will be set using data from the Spring 2000 administration and will be applied to the Spring 2001 administration of the assessments. Performance standards for mathematics will be set using data from the Spring 2001 administration of the California Standards-Based Tests. The mathematics performance standards will be applied to the Spring 2002 assessment.

Alignment: Title I requires that final assessments be aligned with content and performance standards in at least math and reading/language arts, as well as any other subject area in which a State has adopted standards.

California does not fully meet this requirement. Even the augmentation of the SAT-9 with additional items has left identified gaps between the content standards and the current assessments. California will need a clear plan to address these gaps.

Technical Quality: Title I requires that the State assessments be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments.

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California does not meet this requirement because it did not provide evidence of technical quality for most of the components of its assessment system. The technical manual for the SAT-9 provided appropriate documentation for that portion of the assessment system. However, the reliability data provided for the augmented items were not sufficient. Information on the technical quality of the components of the California Standard-Based Assessments or the "stand-alone tests" is required as each is implemented. Information on technical quality and California's plans for correcting any problems is particularly important given that the data provided for the augmentation items suggest low reliability for the math tests in grades 9-11.

The California narrative indicated that content review panels evaluate each item before it is used. However, no evidence was provided that this process ensures fairness and accessibility of the assessments. Moreover, no evidence was provided on the way the State will ensure that the assessment results are comparable for different schools and for different years, nor of systematic plans for reviewing and improving the assessments.

Inclusion of All Students in Assessments, Reporting and Accountability: Title I requires that final assessments provide for the participation of all students in the grades being assessed. Title I specifically requires the inclusion of limited English proficient (LEP) students in final assessments and makes clear that States must assess LEP students, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what they know and can do in subjects other than English. Furthermore, Title I requires States to provide reasonable adaptations and accommodations for students with diverse learning needs, including LEP students and students with disabilities.

California does not yet meet these requirements. We recognize that California requires all students who have been in school for at least one year, regardless of English language proficiency, to be assessed with the SAT-9, and that this practice has been the topic of some controversy. However, because the SAT-9 is not aligned with California standards, it cannot be the primary test for Title I accountability purposes. Therefore, our primary focus is on the inclusion policies, practices and test validity for limited English proficient students and students with disabilities in any standard-based assessment to be developed, not the SAT-9 alone.

As we discussed, the State Board of Education recently adopted a policy that provides a broad range of accommodations in order to maximize the validity of the High School Exit Exam for limited English proficient students and students with disabilities. As you pointed out, these steps are particularly important to take for a high stakes test, and we agree. However, you indicated that the State Board does not plan to incorporate the same range of accommodations into the California Standard-Based Tests that will be

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administered for school accountability at earlier grade levels. Consequently, we are concerned that these tests used for Title I purposes may have limited validity for LEP students and students with disabilities even though the procedures needed to increase validity are readily apparent and available for use. Further, in California's submission to the U.S. Department of Education, no information was provided to establish the validity of the accommodations currently provided to California students, or planned for use with the standards-based assessment.

Title I requires all students, including limited English proficient students and students with disabilities, to be included in the State's accountability system; the performance of these students may not be excluded from the determination of whether a school is making adequate progress toward helping its students meet State standards. Our interpretation of the participation data that you provided indicated that more than 900,000 students are excluded from your current system of accountability because scores on the SAT-9 were not valid, students were exempt, and students who attended small or charter schools were excluded. Simply put, the results of every student who takes an assessment must be used to determine school accountability. For the purposes of measuring school progress under Title I, results for students who participate in the standard administration of the State assessment, participate with accommodations, or take an alternate assessment must be reported and integrated into the State's mechanism for evaluating schools. Furthermore, the number of students exempted from testing must be reported and should be integrated in the State's accountability system.

California does not meet this requirement, in part, because of the relatively high rate of excluding students who have been tested from school accountability, and principally because the standards-based test has not been reported or used in the accountability system.

In addition, little information was provided on the California alternate assessment. No evidence was provided on the development of, participation in, success of, or reporting and use in the accountability program for the alternate assessment. Based on our conversations and evidence submitted, it is unclear what California has decided to develop as an alternate assessment for students with disabilities who are unable to participate in the standard assessment, though this is required both by Individuals With Disabilities Education Act (IDEA) and by Title I.

Further, no evidence was provided describing how performance of schools with fewer than 100 students will be evaluated as required by the alternative accountability system that is being developed for small schools and for implementation in the 2001-2002 school year.

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Title I requires that each state shall demonstrate that the state has developed or adopted a set of high quality, yearly student assessments that will be used as the primary means of determining the adequate yearly performance of each local educational agency and school served by Title I. Currently, California uses only the results from the SAT-9 for accountability purposes, not the standards-based assessment to be developed. Yet, Title I requires the use of standards-based assessments as the primary measure for determining adequate yearly progress for each school. No information was provided about how the proposed standards-based assessments and the SAT-9 will be weighted in the accountability system.

Title I also requires that assessments provide individual student interpretive and descriptive reports that let parents know how well their students are meeting the performance standards set by the State and that all participating LEAs produce individual school performance profiles for all their participating schools. California will not be able to meet this requirement until performance standards are set in 2002.

Assessment results are also required to be disaggregated within each State, local educational agency, and school. The Title I statute spells out the categories for reporting results by gender, major racial and ethnic groups, English proficiency status, and migrant status. It also requires that students with disabilities be compared to non-disabled students, and economically disadvantaged students be compared to students who are not economically disadvantaged. California disaggregates and reports by all required categories except for migrant status, and therefore does not yet fully meet this requirement.

Because of all of the above issues, California is required to enter into a compliance agreement with the U.S. Department of Education of Education in order to remain eligible to receive Title I funds. A compliance agreement is a statutory remedy authorized by § 457 of the General Education Provisions Act for situations in which a state or local education agency cannot meet statutory requirements within the timeframe specified by law. Its purpose is to bring a grantee into full compliance with applicable requirements as soon as feasible, but no longer than three years. Attached is a summary of the issues based on the materials that were reviewed that the compliance agreement must address. This list may change as California clarifies its plans for the development and implementation of the standards-based assessments and responds to the issues raised.

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The Department and the State will need to agree on the components of the compliance agreement, and publish the final agreement. A detailed plan and specific timeline for how all of the steps necessary to bring the State into compliance will be accomplished must be submitted as a part of the negotiated agreement. Before entering into a compliance agreement:

- The State must be provided a hearing at which to demonstrate that full compliance is not feasible until a future date.
- Findings of noncompliance and the substance of the compliance agreement must be published in the *Federal Register*.

When the required steps have been completed, evidence that the assessment system meets the Title I requirements will be resubmitted for review by a panel of Peer Reviewers.

We are prepared to begin immediately to work with you to discuss the issues raised in this letter and to develop the details of the compliance agreement. We believe it is possible to complete work on this agreement within sixty days, and in any event, *it is* essential to complete this work by the spring administration of your assessment. While other issues related to California's compliance with the requirements of federal education programs have at times remained unresolved for long periods of time, this issue is of such overriding importance that it must be resolved in a timely fashion. Otherwise, the Department is prepared to consider the fuil range of enforcement options at its disposal, including withholding a portion of Title 1 Part A program funds.

We look forward to working with California to support a high quality assessment system. If you would like to discuss this further, please do not hesitate to call Mitzi Beach, Group Leader for Compensatory Education Programs at 202-260-0823.

Sincerely,

Michael Cohen

Enclosure

OF/RF/JK1/19/2001

Summary of Title I Requirements to be Addressed

Based on what has been reviewed to date, California will need to provide or develop the following in order to meet the Title I requirements. This list may change as California clarifies its plans for the development and implementation of the standards-based assessments and responds to the issues raised.

The following issues are ones that California may be able to resolve in a timely fashion:

- Follow through on the development and implementation of all of the components of the final assessment system.
- Provide evidence as to how the final assessment system will meet the requirement for multiple measures that assess higher order thinking skills.
- Provide evidence of performance standards that describe three levels of performance that are aligned to content standards.
- Provide evidence about alignment and technical quality of the new standards-based assessments in English language arts and mathematics.
- Provide evidence describing how the performance of schools with fewer than 100 students is being evaluated using an alternative accountability system.
- Provide evidence that individual reports that contain information on the attainment of student performance standards are provided.
- Provide evidence that LEAs are completing school and district profiles that show student performance related to mastery of standards that include disaggregated results by all the required categories including migrant status.

It is not clear that California intends to fully comply with the following issues:

- Adopt accommodation policies for the standards-based assessment that increase validity and maximum participation.
- Provide evidence of the development of, participation in, success of, reporting and use of the accountability program for the California Special Education alternate assessment program.
- Incorporate into the accountability system data for students who take the alternate assessment and students administered assessments with non-standard accommodation.
- Participation of all students in the accountability system
- The standards-based assessments will be the primary basis for determining LEA and school progress when the standard-based assessment system is fully implemented.

Endnotes

[1] "Study finds unequal education in California," *The San Francisco Chronicle*, Feb. 25, 2000.

[2] "Glaring Gap in School Test Scores," *The San Francisco Examiner*, July 23, 2000.

[3] Joan L. Herman, Richard S. Brown, and Eva L. Baker, *Student Assessment and Student Achievement in the California Public School System* (Los Angeles: University of California, Los Angeles, Graduate School of Education and Information Studies, Center for Research on Evaluation, Standards, and Student Testing Apr. 2000).

[4] *Education Week*, Jan. 14, 1998.

[5] California Department of Education News Release (Sept. 29, 1997).

[6] State of California News Release (Jul. 2, 1998).

[7] *Education Week*, May 19, 1999.

[8] *<http://www.cde.ca.gov/statetests/star/2001sbeela.html>*.

[9] *Department of Education v. San Francisco Unified School District*.

[10] It should be noted that with the passage of the Public Schools Accountability Act of 1999, districts no longer submit to CDE the District Accountability System Description, the Student Achievement School Report, and the list of schools identified for Title I Program Improvement on the Consolidated Application, Part II.

[11] ELLs who are in the early stages of ELD are required to have a bilingual instructional aide. Once these students have an aide, Title I services would be deemed supplementary.

[12] Legislation is currently pending that proposes exempting ELLs who have been in California schools less than 24 months.

[13] *<http://www.fresno.k12.ca.us/divdept/stafed/Alloc.html>*.

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William L. Taylor is a lawyer, teacher, and writer in the fields of civil rights and education. He practices law in Washington, D.C., specializing in litigation and other forms of advocacy on behalf of low-income and minority children. He began his legal career in 1954 working for Thurgood Marshall and the NAACP Legal Defense and Education Fund. In the 1960s he served as General Counsel and later as staff director of the U.S. Commission on Civil Rights, where he directed major investigations and research studies that contributed to the civil rights laws enacted in the 1960s. In 1970, he founded the Center for National Policy Review, a civil rights research and advocacy organization funded by private foundations that he directed for 16 years. Mr. Taylor has long been a leader of the Leadership Conference on Civil Rights and currently serves as Vice Chairman. He was also a founder and now serves as the Acting Chair of the Citizens' Commission on Civil Rights.

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Robert Rothman is a nationally known education writer. He is a principal associate for the Annenberg Institute for School Reform and and a consultant for various organizations, including the Citizens' Commission on Civil Rights. Previously, Rothman was a senior project associate for Achieve, Inc., and a study director for the Board on Testing and Assessment at the National Research Council, where he directed a study on standards-based assessment and accountability, which produced the report *Testing, Teaching, and Learning: A Guide for States and School Districts*. Rothman was also the director of special projects for the National Center on Education and the Economy and a reporter and

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